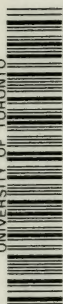


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GERMAN CONTROL OVER INTERNATIONAL
ECONOMIC RELATIONS
1930-1940

BY

ALLEN THOMAS BONNELL

THE UNIVERSITY OF ILLINOIS PRESS
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PREFACE

THIS MONOGRAPH is neither a justification nor a condemnation of German international economic policy from 1930 to 1940. It is an attempt to explain the causes, the nature, and the consequences of the rigid control which Germany exercised over its international economic and financial relations during the past decade. Certain of the consequences of control measures have important bearing on the present efficacy of the German economy for total war. Because of the multiplicity of restrictive measures, this analysis is neither exhaustive nor final. German international economic policy is still in a state of flux.

To the National Socialists has been assigned a great deal of the responsibility for the disruption of normal international economic and financial relations between nations. However, to a considerable extent, German control measures were consequences, rather than causes, of international disequilibria. Germany was not so much the source of international economic and financial disturbances as a medium through which shocks originating elsewhere were transmitted to other parts of the world economy.

In carrying out this study the writer benefited greatly from the criticisms and suggestions of Professors Ivan Wright and Simon Litman of the University of Illinois. Thanks are also due the Institute of International Education in New York City through whose assistance the writer was privileged to spend a year at the University of Bonn, Germany, as an Exchange Fellow in Economics. To members of the Department of Economics at the University of Bonn and to the Regierungspräsident of West Prussia, i.R., Dr. Carl Budding, who suggested sources of information and interpreted certain German developments, acknowledgment is also due.

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ABBREVIATIONS USED IN FOOTNOTES

BIS = Bank for International Settlements.

DOOT = Department of Overseas Trade of Great Britain.

London Economist = *The Economist* (London).

RGBl. = *Reichsgesetzblatt*.

VKF = *Vierteljahreshefte zur Konjunkturforschung*.

VO = *Verordnung*.

CHAPTER I

INTRODUCTION

THE DECADE that followed the Treaty of Versailles witnessed a cumulative increase in governmental supervision of international economic relations. World-wide economic depression after 1929 accentuated the trend toward national isolation and insulation, both of which were accomplished through rigid measures of control over the movement of wealth and persons and the exchange of goods and services between nations.

The purpose of this monograph is threefold. It is intended:

1. To review the means by which Germany exercised control over international economic relations through supervision of foreign exchanges, international capital transfer, and international commerce between 1930 and 1940.

2. To indicate forces, internal and external, which instigated and affected such measures of control.

3. To appraise the effects of these measures of control upon:

- a. the internal and external stability of the German currency;
- b. the volume, character, terms, and direction of German foreign trade; and,
- c. certain aspects of the German economy and the world economy.

Strict measures of control over international economic relations mean withdrawal from participation in a world economy. Withdrawal, according to classical economic theory, means the renunciation of a potentially higher standard of living. Yet, in many cases, withdrawal is undertaken to prevent certain costs of participation which seem to outweigh advantages. These costs are apparent in the sensitivity of individual nations to disturbances transmitted by way of the world economy from other nations.

When nations are interdependent, the frontier of national sovereignty does not coincide with the frontier of economic life. This fact has led to a search for new means of acquiring economic security. One means involves the restriction of economic contacts with, and a reduction of, dependency on the world economy; a second involves the extension of political sovereignty. The first is autarchy; the second is militant nationalism—imperialism. In certain respects the two are complementary.

Any justification or condemnation of the withdrawal of nations from participation in a world economy must be conditioned by the forces in-

fluencing their action. Although there were common forces which led to the introduction of restrictions on international commercial and financial relations in various nations in the world, control measures of individual countries developed in response to peculiar national considerations. Certain of the forces, internal and external, which influenced the establishment of measures of control over German international economic relations, are considered in the following chapter.

CHAPTER II

GERMAN INTERNATIONAL ECONOMIC RELATIONS, 1919-1931

EFFECTS OF THE WORLD WAR AND THE TREATY OF VERSAILLES

By 1914 Germany rivaled Great Britain for world supremacy in spheres of influence, marketing facilities, merchant fleet, foreign trade, and exports of capital; but German international economic relations were profoundly affected by the World War and the Treaty of Versailles. The war meant a loss of wealth and manpower, the severance of international commercial ties, and a disruption of established political, social, and economic patterns. The Treaty of Versailles demanded the surrender of the merchant fleet, rolling stock, European territories, and colonies. It established a supervision of domestic and international political and economic relations, and exacted, under duress, the promise to pay, in addition to the gold and goods sacrificed at the close of the war, a part of future income as reparations.

In two particulars were German international economic relations affected by these changes. First, capital losses increased dependency upon foreign capital. Within twelve years after the war Germany was the world's greatest debtor. This indebtedness had direct bearing on the controls established over German international economic relations after the summer of 1931. Second, Germany became less self sufficient, more specialized, more dependent upon imports of foodstuffs and raw materials which were obtained through exports of industrial products.¹

Recovery depended on the re-establishment of normal relations with the world economy, but this was not easily accomplished. Many international connections had been severed, warehouses and commercial houses confiscated, and the fleet decimated. Old markets were filled with new rivals; some were closed. Nationalism, fostered by political provisions of the Treaty, sanctioned new trade barriers in Central Europe. German bargaining strength was handicapped by the lack of tariff autonomy until 1925. A lack of capital limited the competitive possibilities of German industry, but, for lack of confidence, foreign loans were not available until 1924. Financial instability and inflation prevented the accumulation of capital through domestic savings.

¹Schmidt, C. T., *German Business Cycles*, p. 7. Germany had been dependent upon foreign markets prior to the World War, but as a consequence of the Treaty, Germany became relatively more dependent. The disturbing factor in this new dependency was the fact that her indebtedness on the reparations account forced her to acquire an export surplus to make payments; whereas, as a creditor nation before the war, she had enjoyed an import surplus which was usually taken in imports of raw materials, etc.

REPARATIONS AND INFLATION

The significance of the reparations problem and its effects upon international financial instability during the years 1920-1924 cannot be taken too lightly. It was not the payment of reparations alone that caused the German inflation, though this was an important factor. A weak government, unbalanced budgets, poor tax collections, and speculation in the mark were also causal factors.² Although at the close of the war the general financial condition of Germany was not desperate, uncertainty about the outcome of the peace treaty precipitated a fall of the mark, later accentuated by the announcement of peace terms. Division of the upper Silesian district so that coal and steel industries were split between Poland and Germany occasioned a further fall. Early in 1922 the Wirth government informed the Reparations Commission that a financial catastrophe was in sight and asked for a suspension of payments which was not granted. In January, 1923, the French and Belgian governments declared Germany in default and sent a control commission, backed by an army, into the Ruhr valley. Germans resisted passively. The mark fell precipitately.³

Inflation dissipated the economic virility of Germany. In the period 1919-1923 productivity declined, the few remaining foreign investments were lost, and the flight from the mark led to an appreciable export of capital and a transfer of German assets to foreign hands. Necessarily hasty decisions resulted in malinvestments in capital equipment. Savings ceased when wisdom dictated hurried consumption.⁴ Germany of 1924 was rich in disillusionment, poor in capital. Though the inflation may have furnished some stimulus to exports,⁵ advantages were illusory, for the lack of technical advancement (which had not been apparent inso-much as the inflation discouraged importation of manufactured goods), placed Germany far to the rear, exposed her to world competition, and forced her to undertake a painful and costly reorganization—a reorganization for which foreign capital was imperative.⁶

²The relationship of reparations and the pressure of payments upon the exchanges, and the effects which the falling exchanges had upon internal expenditures are shown most clearly by J. H. Williams in his article on "German Foreign Trade and Reparations Payments," *Q. J. E.*, May, 1922, pp. 483-503. This also furnishes an interesting sidelight on the effect of rapidly falling mark exchange on the export trade.

³Angell, J. W., *The Recovery of Germany*, New Haven, 1929, p. 45.

⁴Schmidt, *op. cit.*, pp. 14, 15.

⁵It is argued by some that the low level of the mark was a boon to Germany during the trying days after the war. According to the DOOT, *Report on the Economic and Financial Conditions in Germany*, March, 1922, p. 9, "the low mark has enabled her (Germany) to proceed apace with the reconstruction of the merchant marine, as German ships which are paid for in paper marks, can earn freights paid in gold. It is the low mark which has enabled her to return to her former overseas markets and to open up new ones. Further, it is the low mark which has, during the past year (1921-1922) saved Germany from the crushing burden of unemployment under which the rest of the world labored so heavily. . . . curious as it may seem, the low mark has also been a means of enabling the German manufacturer and exporter to re-establish foreign balances. Had the mark not been low, they could not have sold their goods and obtained currency in the ordinary way of business. Now they have been able to do so, and the great anxiety of two years ago concerning the supply of raw material has thereby been removed."

⁶Angell, *op. cit.*, p. 47.

THE DAWES PLAN

General economic and financial rehabilitation was necessary. By request of the Reparations Commission, November 30, 1923, two Committees of Experts were established. The first, under R. G. Dawes, met in Paris, February 14, 1924, to consider the means of balancing the budget and measures to be taken to stabilize the currency. The second, under W. McKenna, was to determine the amount of German capital exported and consider means of bringing it back.⁷ The problem confronting this second committee arose again in August, 1931, when the Wiggin Commission met in Basle to discuss means of bringing back capital which fled Germany during the crisis of 1931. A report of the first committee, submitted to the Chairman of the Reparations Commission on April 9, 1924, recommended reduction of political intervention in Germany to a minimum, improvement of the German budget, currency stabilization, and establishment of a mechanism for reparations transfer. The Committee realized the important difference between the ability to collect taxes with which to meet reparations payment and the capacity to transfer those payments abroad. Sources of collection were indicated and a committee of six appointed to make recommendations concerning transfer. Payments were to increase over a five-year period starting with 1 billion gold marks in 1924-1925, and rising to 2.5 billion gold marks in 1928-1929, which sum was to represent the payment for a standard year. Thus Germany was to transfer during the period, 1924-1929, some 7.5 billion gold marks. By implication the total amount of the debt to be paid was that established by the London Agreement of May, 1921, namely, 135 billion gold marks. No date was established on which payments were to terminate. This was later decided by the Young Plan. On October 10, 1924, more than a month after the signing of the agreements concerning the installation of the payments plan, 800 million gold marks were added to the working capital of Germany under the Dawes Loan and were used for the stabilization of the mark. Until the signing of the Young Plan in 1930, Germany operated under virtual receivership. According to Angell, the setting up of the Dawes Plan was not a cause, but a preliminary condition to recovery. Recovery itself was the product

⁷The amount of capital which had fled was later estimated at between 6-8 billion gold marks. However, one must also take into consideration that Germany lost considerable capital in the payment of reparations. According to the "Reparations and War Debts Supplement" to the *London Economist* (January 23, 1932, p. 9) between the Armistice and 1923, Germany paid in reparations a sum which has been variously estimated at 8 billion gold marks by the Reparations Commission, and at over 40 billion gold marks by the German government, in each case excluding payments in paper marks. Almost the whole of the discrepancy is, however, due to differences in the valuations of external assets transferred, liquidated private property abroad, etc. Excluding these items, Angell estimates that Germany paid roughly 6.5 billion gold marks between November 11, 1918, and September 30, 1922. These totals represent payments made through the exchanges and through payments in kind.

TABLE I.—GERMANY'S BALANCE OF INTERNATIONAL PAYMENTS, 1924-1932
In Millions of Reichsmarks

	Income									
	1924	1925	1926	1927	1928	1929	1930	1931	1932	
Capital inflow.....	3,669	3,222	1,641	4,646	6,958	4,459	3,678	2,817	729	
Commodity exports.....	7,810	9,546	10,677	11,118	12,627	13,632	12,175	9,733	5,814	
Services.....	274	482	532	645	672	712	538	436	339	
Gold imports.....	.....	476	56	574	.....	510	492	1,053	256	
Interest income.....	325	320	340	335	382	400	400	300	200	
Total.....	12,078	14,026	13,246	17,318	20,639	19,713	16,983	15,739	7,338	
Outgo										
Capital outflow.....	750	87	1,034	854	2,852	1,991	3,195	6,494	1,209	
Commodity imports.....	9,626	11,990	9,884	14,079	13,912	13,676	10,617	6,955	4,777	
Repatriations payment.....	281	1,057	1,191	1,584	1,999	2,501	1,699	990	162	
Gold imports.....	1,255	566	624	123	931	315	72	.....	.....
Interest expense.....	166	326	513	680	945	1,200	1,400	1,500	1,100	
Total.....	12,078	14,026	13,246	17,318	20,639	19,713	16,983	15,939	7,338	

Source: Years 1924-1925, "Statistisches Jahrbuch," 1931, pp. 534-535; years 1926-1932, "Statistisches Jahrbuch," 1933, pp. 498-499.

of the combined influence of economic rationalization and the importation of foreign capital.

The second Committee of Experts analyzed the factors leading to the flight of capital, placed the prime responsibility on the inflation, and reckoned the amount which had fled at between 6 and 8 billion marks. The demoralization of the middle class, which had suffered most from the inflation, could not be measured in monetary terms. Political developments of the 1930's indicated the cost of the "flight of morale" that took place during the inflation.

To all appearances, the Dawes Plan worked successfully. Scheduled payments were met regularly. Not until the cessation of foreign lending in 1929 did it become evident that borrowing alone had made payments to the Allied Powers possible. The excesses of the war years, the efflux of funds in the years after the war, and the cutting off of funds during the period of inflation had exhausted the German capital market. With the phenomenal and almost unwarranted restoration of confidence in German affairs following the inauguration of the Dawes Plan, capital, attracted by high rates of interest, flowed into Germany.

FOREIGN TRADE AND THE BALANCE OF PAYMENTS, 1924-1930

As a mature creditor nation immediately before the World War, Germany had enjoyed an annual import surplus. As a political debtor after the war, Germany should have developed an export surplus in order to acquire foreign exchange for reparations payments. According to classical foreign trade theory, a galaxy of equilibrating forces ranging from exchange rates to discount rates should have come to the aid of a nation attempting heavy unilateral payments. Assuming that the German economy was capable, despite a capital deficit, of producing a surplus for export, and assuming that foreign buyers were to be found, equilibrating forces might have solved the transfer problem. It was apparent that both assumptions were incapable of complete fulfillment.

In but a single year between 1924 and 1929 did Germany enjoy an export surplus (see Balance of Payments, Table 1) and that was not sufficient to cover reparations payments. An influx of foreign capital provided the necessary foreign exchange, and by permitting an influx of capital which stimulated the German economy, disguised the real state of affairs until 1929 when foreign lending let up rapidly. Thereafter, when loans ceased and the imports which they had made possible shriveled, Germany met reparations payments out of an export surplus, but that surplus was barely sufficient to cover fully interest and amortization on the German foreign debt, reparations, and withdrawal of short-term funds when runs on the mark began. Withal, as Table 1 reveals,

the recovery made in foreign trade was remarkable. Ability to maintain an export surplus in 1930 and immediately thereafter was favorably conditioned by the contrasting degree of fall in prices of agricultural products which Germany imported from overseas markets and prices of finished goods which Germany sent principally to European countries.⁸ Additional reasons why German exports continued to expand during the early years of the depression will be noted shortly. Because of the dependence of German industry upon foreign sources of essential raw materials, these imports reflected quite closely changes in general internal economic conditions. Exports were conditioned both by domestic economic activity and economic activity in foreign countries.⁹

INFLUX OF FOREIGN CAPITAL

Imports of capital more than made up for the trade deficit. Between 1924-1928 Germany imported 14.8 billion Rm of capital, of which 6.9 billion Rm was long-term. Great Britain and the United States provided the greater share. The accumulation of foreign funds invested in Germany may be observed in Table 2. During the same period 6.1 billion Rm were transferred as reparations,¹⁰ so funds imported were more than adequate to furnish the necessary foreign exchange.¹¹ However, service charges on the loans constituted an additional sum to be repaid each year, and increased the pressure upon the foreign exchanges. Foreigners were warned against making advances to municipalities and states, insomuch as reparations annuities and service of the Dawes Loan were the only items guaranteed by the Transfer Committee. Advice availed little. It behooves those bankers who have funds tied up in Germany today to blame themselves for their ill-fortune, for in no instance did the United States State Department encourage investment in German bonds or other securities. Even an Advisory Foreign Loans Council (*Beratungsstelle für Auslandskredite*) set up by the Reich government failed to check borrowings.¹²

Of greater significance than the total of the borrowings was their form, particularly after 1927. When long-term credits were scarce,

⁸*London Economist*, "Reparations and War Debts Supplement," January 23, 1932, pp. 10, 11.

⁹Schmidt, *op. cit.*, pp. 112, 113.

¹⁰Figures are those of the *London Economist*, *loc. cit.* Angell's estimate is that Germany imported between 18,000 and 19,000 million marks of foreign funds.

¹¹The argument was later made that reparations had been paid by foreign borrowings, and that consequently there was some justification for regarding the commercial debts in the same category with reparations and to look upon their repayment with disfavor. As a matter of fact reparations were not paid by foreign borrowings, for the foreign borrowings merely made available the foreign exchange by which transfer could be made. The fact is that reparations payments were paid by the Germans. They were paid from additional taxes, the very collecting of which reduced the taxpayers consumption of imported and all other goods. For a thorough discussion in regard to this see National Industrial Conference Board, *International Transactions of the United States*, New York City, 1933, p. 100 ff.

¹²Harris, *op. cit.*, p. 5.

TABLE 2.—FOREIGN INVESTMENTS IN GERMANY, 1923-1931
In Billions of Reichsmarks

Year	Short term	Long term	Other investment	Total
1923.....	?	0	?	?
1924.....	?	1.0	?	?
1925.....	?	2.5	?	?
1926.....	4.1	4.1	3.5	11.7
1927.....	6.6	5.4	4.5	16.5
1928.....	9.0	7.0	5.5	21.5
1929.....	11.7	7.3	6.0	25.0
1930.....	10.3	9.2	6.0	25.5
1931 (July).....	8.0	9.0	6.0	23.0

Source: Adapted from material in the "Report of the Committee Appointed on the Recommendation of the London Conference, 1931," in *International Conciliation Pamphlet* No. 280, May, 1932.

Germany resorted to short-term credits, with the result that by the end of 1929 the total short-term debt to foreigners was around 12 billion Rm. The significance of this to the German economy is best seen in the effects it had during the monetary crisis in 1931. It was primarily because of this short-term indebtedness that Germany was forced to introduce strict control of foreign exchanges and capital movements. The controls that were extended over foreign trade were the consequences of causes other than foreign debts, but assumed significance because of their relationship to foreign indebtedness.

FOREIGN CAPITAL AND GERMAN ECONOMIC RECOVERY 1924-1930

The all-around demand for capital resulted in an almost continuous tension in the German money market during the period 1924-1931.¹³ High rates of interest did not discourage demand; nor did they encourage sufficient savings. Many large industrial concerns went directly to the foreign capital markets; other smaller firms used banks as intermediaries. Some banks, to retain their business and keep foreign bank branches from competing with them, entered foreign capital markets to borrow short-term funds which they later lent on long-term. Short-term rates were substantially lower than long-term. Difficulties ensued when the banks were subjected to pressure for repayment. The *Institut für*

¹³Schmidt, *op. cit.*, p. 78 comments on the extreme sensitivity of the German economy to foreign influences. The Reichsbank found itself in the peculiar position of having only partial control over the German money market; for whenever it wished to prevent the expansion of credit through the raising of rates, foreign funds flowed in; and when it wished to encourage borrowing through the lowering of rates, foreign funds departed. The German economy likewise found itself at the mercy of foreign economic and political conditions which affected the flow of funds internationally. Only after the crisis of 1931, after the Reichsbank had fortified itself with emergency measures, was it able to exercise exclusive control over the money market and the movement of capital—though there was little movement of capital to be controlled, particularly inwardbound.

Konjunkturforschung estimated that the total volume of debt in 1930 (external and internal) was 95 billion Rm, 35 billion of which represented short-term debts. In 1913, not more than 15 per cent of the total national indebtedness had been short-term. The distribution in Germany of the short-term funds borrowed from abroad as of July 26, 1931, is shown in Table 5 on page 37.

It was necessary to replace the liquidated foreign properties of export industries, and rationalize the German productive apparatus. Many enterprises which were not able to get foreign credits were absorbed into the productive capacity of the mass production industries which assumed the responsibility for the interest and amortization to foreign lenders.¹⁴ Inability to carry out the costs of reorganization as well as technical and administrative difficulties led to many business failures. When rationalization was finally complete, foreign trade possibilities had not expanded to support the increased productive capacity. The rapid process of rationalization produced a lack of balance which called for subsequent readjustment, though this liquidation period was somewhat delayed.¹⁵ Public utilities as well as private industries suffered equally from lack of capital.

Agriculture, relieved of its debt during the inflation, was not long in regaining it. After the stabilization of the mark it faced the problem of increasing production costs, particularly higher interest rates. High capital charges prevented the lowering of costs through mechanization and improvement of methods on a large scale. The problem of making up a deficit caused by high costs and low market prices caused an increase in agricultural production through 1930, whereupon agricultural prices fell still further. Since agricultural costs ran ahead of industrial costs, there was a dislocation of national income to the detriment of agriculture. Though tariff protection against falling world agricultural prices inevitably jeopardized the interests of industry, it was attempted. However, it was lacking at critical times. More fruitful sources of agricultural relief were the attempts under National Socialism to reduce the agricultural debt, control agricultural prices, and place a premium on German self-sufficiency.

After a recovery in 1924, the German economy survived a threatened industrial collapse and business panic in 1925 and revived under the stimulus of capital imports in the early part of 1926. These new

¹⁴It has been remarked that Germany was driven from the fundamental lines of international division of labor and compelled to enter the world market in competition for the sale of mass production products in which she could compete with other industrial countries only under conditions of the greatest sacrifice. It was argued that making capital available for industries involved in "quality" production would be to the interest of all concerned. It was these quality industries that were particularly hard hit when German foreign properties were confiscated after the war, for their distributing organs were paralyzed. See Wiedenfeld, Kurt, "German Industries," *International Conciliation Pamphlet*, 279, p. 150.

¹⁵Schmidt, *op. cit.*, pp. 95, 96.

funds were used in the reorganization and rationalization of industry. Though general business recovered, unemployment decreased less rapidly, probably as a consequence of the reconstruction of German industry and commerce. By the end of the winter of 1926-1927, the British coal strike, which had led to the stimulation of German coal and iron and steel industries, had ended, and the influx of foreign capital slowed down. Nevertheless, the German economy continued to expand. Stocks rose as a consequence of speculation, and when the government made an attempt to control stock exchange speculation in May, 1927, a drastic fall in stock prices resulted. Attempts made to limit credit were useless. Long-term credits decreased during the first half of 1927, but short-term credits continued to flow into Germany in considerable volume. At the same time there was a counter flow of German credits in the form of investments to other countries. Though foreign capital continued to flow in, interest rates remained high. According to Schmidt, "capital scarcity was an ominous undercurrent over whose surface the industrial and commercial activities of the nation rose and fell."¹⁶ Insomuch as the capital undercurrent was largely influenced by international conditions, the German economy was peculiarly susceptible to foreign influences and foreign credit conditions.

The height of expansion was reached in 1928. Thereafter four factors tended to slow down the pace of industrial activity:¹⁷

1. The large scale re-equipment and technical rationalization of German industry was completed.
2. The American money market underwent a complete reversal and instead of distributing money it attracted it.
3. The reparations question was again under discussion after a quiescent period of four years.
4. An exceptionally severe and long winter interfered with many industries.

The stock market remained inactive, the import balance began to decline (as a consequence of the cessation of foreign lending), and industrial production tended to fall, though costs of production and wholesale commodity prices continued to advance. Conditions grew worse throughout 1929, and unemployment, the protests of bills, and business failures tended to increase. Pressure on the money market seemed to diminish, but this came as a consequence of the fact that production was being curtailed. By 1930 Germany was in the midst of depression.

It was during 1930 and 1931 that the precariousness of the German capital position, particularly with respect to its accumulation of short-term funds, became evident. The total foreign indebtedness reached its

¹⁶Schmidt, *op. cit.*, p. 47.

¹⁷DOOT, *Report on Economic and Financial Conditions in Germany, 1928-1929*, p. 5.

highest figure about the middle of the year 1930, after which, as a consequence of a number of events to be examined shortly, withdrawal of funds began.

THE YOUNG PLAN

The Dawes Plan had not been intended as a permanent solution to reparations. It was the hope of the Committee of Experts which met in Paris, February 9, 1929, under the chairmanship of Owen D. Young, that a final settlement might be effected and the debt transferred from the political to the commercial sphere. In lieu of the former Transfer Committee, an independent organization, the Bank for International Settlements (BIS), was created to serve as intermediary for the transfer of funds. A number of changes from the Dawes Plan were evident in the plan submitted by the committee in June, 1929:

1. Total annual payments consisting of two parts, one postponable after 90 days previous notice, the other unconditional, were to cease after 1987-1988. The latter, amounting to 666 million Rm, was covered by receipts of the German Railway Company.

2. Deliveries in kind were to taper off over ten years in order that German exports might not be seriously affected by sudden termination,

3. Sources of annuities were designated as the German Railways and the Reich budget.

4. When postponement of the conditional portion of reparations was requested the Bank for International Settlements was to convene a Special Advisory Committee to consider the circumstances leading to the request. The Plan lacked a "prosperity clause," formerly included in the Dawes Plan, making payments conditional upon the maintenance of a certain degree of prosperity within Germany.

The Young Plan was ratified January 30, 1930, after numerous disagreements concerning annuity reductions, transfers in kind, and distribution of unconditional reparations. May 17, 1930, the Bank for International Settlements opened. Final evacuation of the Third Rhine Zone was begun. However, the problem was by no means solved. Germany accepted the plan reluctantly. Hjalmar Schacht returned home and crusaded against it. National Socialists sought to defeat the Plan by seeking a referendum on a law relating to the so-called "war-guilt" controversy. Notwithstanding, payments on the new schedule were made successfully in 1930 despite the growing depression.¹⁸

To economic insecurity was added political unrest. The Briand Memorandum of May, 1930, attempted to bring European states into a

¹⁸For a list of payments effected under the London, the Dawes, and the Young Plans on the reparations account see the *London Economist*, "Economics and War Debts Supplement," January 23, 1932.

self-protective economic federation and to evoke a re-affirmation of the status quo of Versailles. The real answer to Briand's proposal was evident in the freedom of action and expression in the German General Election in September, 1930, as well as in general opposition to the Young Plan. The general election resulted in a landslide for National Socialists whose repudiation policies were well popularized, and there was a decided flight of capital.¹⁹ Political tension was further increased when Germany refused to accept the draft of the Disarmament Convention prepared by the Preparatory Disarmament Commission in Geneva at the close of 1930. The unrest of 1930 foreshadowed the impending crisis.

ECONOMIC CONDITIONS IN GERMANY, 1930-1931

The crisis of 1931 was rooted in events of the post-war years. An understanding of those events is prerequisite to an understanding of the comprehensive control over international economic relations established by Germany in 1931. After 1925, relaxation of stringent control of foreign exchanges and abolishment of the import and export control system indicated a tendency toward elimination of fetters which had bound international financial and commercial relations during the war and the reconstruction. Liberal commercial policies were short-lived. As early as 1928 Germany increased protection to agriculture. Barriers grew in subsequent years. Immediate cause for new exchange and capital restrictions lay in the financial crisis which came to a head in June and July, 1931. Causes for the restrictions on international trade lay not in this financial crisis, but rather in the international economic crisis which resulted in falling prices, diminished buying, and protectionism, all of which dovetailed nicely with increasingly popular militaristic, nationalistic, and autarchistic philosophies. These factors will be examined in detail in subsequent chapters.

The external and domestic public and private debt became heavier in view of falling prices, cessation of international lending, and a diminution of private and public income. Business indexes registered the descent into depression; political complications reflected the undercurrent of unrest.²⁰ Confidence of foreigners in Germany diminished.

¹⁹Wheeler-Bennett, *Wreck of Reparations*, pp. 31 ff.

²⁰This was shown in the reaction of the public to the Young Plan, the Briand Memorandum, and the preparatory Disarmament Conference in December, 1930. Runs on Germany had already taken place in 1929 and 1930. It is interesting to note how the internal economic situation contributed to the rise of Hitler. It seemed that everything, including the foreign policies of other nations, made his ascent to power inevitable. Lack of confidence in the situation in Germany was displayed in a withdrawal of short-term investments and the cessation of further lending, both during the period of discussion of the Young Plan, and later when the National Socialists registered a political landslide in the Reichstag elections in the fall of 1930. This loss may be indicated in the fact that between the period, January 30, 1930, and January 30, 1931, Germany lost huge sums of short-term capital while at the same time there was a diminution in the reserves of the Reichsbank. Some reduction in credits was to be expected, however, in view of the lower volume of business. At a later date, however, assurance was given that such a repudiation of debts would not include private debts.

Constant threat of a National Socialist success which would have meant debt repudiation, did not help matters. It was not domestic complications alone that made Germany an easy prey to the vacillating confidence of foreigners. The procrastinations of France and other foreign powers who might have lent a helping hand at critical moments helped to bring about and to accentuate the financial crisis.²¹ Delays were not all deliberate; some of them came from ignorance of the real emergency confronting Germany.

The widespread lack of confidence in Germany was not wholly warranted. Indexes of prosperity revealed that general economic conditions there were no worse than elsewhere.²² However, the London *Economist* observed sagely at the time that it was "unsafe to draw from a limited series of indexes too positive conclusions regarding a situation in which intangible factors such as political psychology and commercial confidence play a large part." The situation in Germany may have been just as bad as elsewhere, but the necessity of meeting reparations payments, at the cost of heavily increased taxation on declining incomes and profits, obviously aggravated a situation which was serious even before the June, 1931, crisis. By the end of 1930 the problem of government financing was acute. The government could scarcely attempt to stimulate industry and the general economy, or alleviate economic distress without tax reserves.²³

In January, 1931, despite a tight money market and a high bank rate there was no influx of funds. On the contrary, a high devisa rate indicated an efflux of funds, principally short-term loans in respect of which, for the greater part, three months' notice of withdrawal had been given the previous October at the time of the fall election panic. Only a small part of the outward movement was attributable to a flight of German capital. In February withdrawals eased and the exchanges lowered. By March it seemed that confidence had risen, for some capital returned and the foreign offers of short-term credit to German banks increased. There was agreement among German banks to restrict their acceptance of such offers so far as possible, for the short-term debt was already too large.²⁴

The setting free of capital from industry had reduced pressure on the capital market in the first part of 1930, but there was marked timidity among investors at the close of 1930 and during the first two months of 1931. Despite low demand, German rates rose. Since foreign rates were falling, it was obviously lack of confidence which prevented the

²¹For details see the following: Einzig, Paul, *Finance and Politics*, London, 1932; and *Behind the Scenes in International Finance*, London, 1932.

²²See appendix. See also *London Economist*, June 27, 1931, p. 1336.

²³VKF, February 28, 1931.

²⁴*London Economist*, January 24, 1931, p. 170.

attraction of foreign capital.²⁵ Such lack of confidence was due to factors already mentioned; namely, the reparations discussion, inner political difficulties, the Nazi "landslide" in 1930, and the precarious budgetary situation. That the German money market, capital market, public finance, and general economy were dependent upon the fickleness of international confidence was indisputable.

So long as there was an active trade balance, and this had been accomplished through the relatively greater decline of imports, Germany could meet international obligations, but not extraordinary withdrawals. Large short-term indebtedness made Germany susceptible to the latter. Unfavorable foreign exchanges provided a natural balancing factor and helped to increase exports. There were, of course, other reasons for the active trade balance:²⁶

1. Cessation of borrowing resulted immediately in a diminution of imports.

2. Principal German markets were in countries whose purchasing power did not fall as rapidly as that of raw material producing countries.

3. German exports were less dependent than those of the United States and Great Britain upon capital exports.

4. In order to gain foreign exchange, cartels dumped goods abroad and recouped losses by higher prices at home.²⁷

5. German industrialists had studied their limitations and knew their foreign markets better than most exporters, and they cultivated this knowledge more thoroughly than their competitors.

6. Prices of imported materials fell more than prices of exported goods.

7. Deflationary price policies within Germany discouraged imports and encouraged exports.

Protection against the Damoclean sword of a transfer crisis which was suspended by a slender string of confidence might have been accomplished through the following:

1. Maintenance of an export surplus large enough to furnish sufficient devisen to meet all contingencies.

2. Improvement of the Reich's finances.

3. Acquisition of more foreign capital, particularly long-term capital.

²⁵Germany, however, would have been in competition with the raw material countries of the world, particularly those of South America, for this capital. There was no great demand for long-term credits for building or for agriculture in Germany; and not so much a demand for new capital, as for a consolidation of short-term obligations into long-term. See VKF, February 26, 1931.

²⁶Wagg, A. G., "Reasons for Stability of German Trade in 1930-1931," *London Economist*, March 21, 1931, p. 639.

²⁷Combined as it was with the lowering of salaries and wages in Germany, this dumping was severely criticized on the ground that it led to a deterioration in the standard of living and the weakening of the home market, a feature which might eventually defeat the object aimed at. See DOOT, *Report on Economic Conditions in Germany*, September, 1931.

4. Refunding of short-term into long-term obligations.
5. Reduction of service charges on foreign obligations.
6. Elimination of reparations.

Without doubt, the last would have aided the Reich's finances, eased the money and capital markets, and lifted the strain on international confidence.

THE FINANCIAL CRISIS, 1931

Basically, everything hinged upon confidence, both domestic and foreign, but what confidence was left was shattered by two events more or less international in character. The first was a gross diplomatic blunder on the part of Germany, namely, the proposal on March 19, 1931, of an Austro-German Customs Union at a time when a likely solution to her precarious economic and budgetary situation seemed to lie in a foreign loan.²⁸ The second was the announcement of the failure of the Austrian *Kreditanstalt* on May 11, 1931, which "sounded an ominous note of warning and brought into relief the perilous condition of the whole of Central Europe."²⁹

The first event had no immediate serious repercussions on the German economy; the second was vital. Unfortunately, the general public did not realize that the situation in Germany with respect to banks and industry was not the same as in Austria where banks held most of the large industrial shares. Furthermore, direct commitments of German banks with respect to the *Kreditanstalt* were insignificant in comparison with their total assets, and the German banks were more liquid than the Austrian banks. Nevertheless, the thread of confidence had been cut, and the sword fell. Flight from the mark began, and the German banking system sought the shelter of emergency decrees.

Chancellor Brüning had been invited to visit England in May for discussion of the disarmament problem, but political repercussions of the proposed Customs Union caused a postponement until June 5, 1931, by which time the immediate problem of the German financial position had become the topic for discussion. The budgetary situation necessitated the passing of a new and unpopular decree increasing government income and reducing officials salaries, pensions, and unemployment relief. This decree, supplemented by a communique, which indicated that in the event

²⁸For details see Wheeler-Bennett, *op. cit.*, p. 40. For further discussion of the proposed Zoll-Union, see Schück, W., "Zollunion," *Die Bank*, Band 47, Heft 17, April 25, 1931, p. 551.

²⁹The failure came about as a result of many difficulties of the post-war area, namely, dismemberment under the Treaty of Versailles, currency dislocation, high tariffs, etc., all of which had direct and indirect effects upon the Austrian economy and the Austrian banking system. Troubles of the bank began when it took over the *Bodenkreditanstalt* at the time when that institution was seriously in danger. This necessitated losses to which were added other losses from the writing down of securities, bad debts, etc. There was a need for replenishment of the working capital and for a restoration of the customer's normal margin of safety. The Austrian government decided to provide the necessary capital in return for shares which it was to dispose of whenever it had the opportunity. For thorough discussion of the incident see *London Economist*, 1931, p. 112; pp. 1219, 1044, 1151.

of the failure of the decree, a suspension of reparations payments would be necessary, appeared simultaneously with Brüning's conference at Chequers. The sole result of the conference was to give English leaders an intimate knowledge of the German predicament.

By the middle of June conditions in Germany bore strong resemblance to a panic. The Bank for International Settlements and the Bank of England, the Bank of France, and the Federal Reserve Bank negotiated a rediscount credit of \$100,000,000 to meet payments falling due at the end of June. The sum was for such a short period and so low in view of the actual need that withdrawals were further stimulated. Germany failed to acquire solidarity among her banks, unity among her people, or agreement in her politics. Consequently, withdrawals of funds increased at such a rate that the Reichsbank faced the problem of going off gold or declaring a moratorium.

Announcement of the Hoover Moratorium brought sudden relief, but whatever benefits might have been gained by the declaration were lost through haggling over the conditions of the moratorium. Not until seventeen days after the first announcement was a conditional acceptance made by France. There was considerable difficulty in getting the Hoover Moratorium through the United States Congress and ratification did not come until December 22, 1931. By the beginning of July confidence in the internal banking system failed. Because of the failure of the Nordwolle and the inability of the Great Banks to cooperate, the Danat Bank was forced to the wall by a severe run. The whole German banking system would have collapsed had it not been for government intervention and the declaration of a general moratorium. Though the moratorium on internal payments was later lifted, there was only partial removal of the control over international payments. The new era of controlled exchanges, and controlled capital movements had been ushered in. This problem is discussed at greater length in the following chapter.

July 15, the British government hurriedly issued invitations to a Conference of Ministers in London on July 20. There recommendations were made that the rediscount credit be renewed for three months, and that concerted measures be taken by the financial institutions in the different countries with a view to maintaining the volume of credits they had already extended to Germany. The most important accomplishment was the recommendation that the BIS set up a committee of representatives of the central banks to inquire into the further credit needs of Germany and study the possibility of converting a part of the short-term credits into long-term credits. No mention was made of a long-term loan or of the matter of political guarantees. Results were indeed meagre. All the conference did was give official recognition to existing conditions.

In the meantime, banks and acceptance houses had come to an understanding regarding the necessity of preventing further withdrawals of funds. The rediscount credit was renewed August 4. Thereafter the banking situation improved gradually. August 8 a Committee of Experts was called together, under the headship of Wiggin, to investigate Germany's credit needs, and on August 19 they published their conclusion that it was necessary to maintain the existing volume of credits, and to replace that capital which had been withdrawn. A "Standstill" Committee which had been meeting in Basle at the request of the Committee of Experts announced the decision of their conference regarding the maintenance of existing short-term credits. Both of these reports are discussed in Chapter III.

THE END OF REPARATIONS

New complications soon set in. On September 3 the *Zollunion* project was shattered by the Hague Court. French financial policy and the repercussions of the German crisis resulted in a run on the pound, and Britain departed from gold on September 20. Within Germany further attempts to balance the budget availed little. Political complications forced a reorganization of the Brüning cabinet in October. German trade was affected by the British devaluation and Emergency Tariff and the financial situation grew worse. In November, 1931, the German government asked the BIS to convene the Special Advisory Committee for which the Young Plan had provided. This Committee, meeting at Basle in December, 1931, concluded that Germany was fully justified in calling for help and would be unable to transfer conditional reparations in July, 1932. The Basle Report advised adjustment of all inter-governmental debts (reparations *and* war debts) to the existing troubled situation as the only lasting step capable of re-establishing the confidence which was the very condition of economic stability and peace.

Though the Basle Report recommended an early meeting of governments, they did not come together until June 16, 1932, at Lausanne, Switzerland, to discuss a final settlement of questions raised in the Report of the Basle Experts. It was decided, July 9, 1932, that Germany was to substitute for former reparations obligations German Government 5 per cent Redeemable Bonds, to be deposited with the BIS to the amount of 3 billion Rm gold of standard weight and fineness. However, the agreement was *conditional* upon its acceptance by all of the powers concerned, and such acceptance was conditional, by implication, upon the cancellation of war debts by the United States.

To achieve the financial and economic reconstruction of central and eastern Europe, the Conference appointed a committee to investigate

measures for overcoming transfer difficulties and reviving trade. Resolutions were drawn recommending a world economic conference to determine means of dealing with international financial and economic questions. The League of Nations was invited to convoke such a meeting at a convenient date. Preliminary examination of financial and economic questions was to be entrusted to authoritative committees of experts, Germany, Belgium, France, England, Italy, and Japan were invited to appoint, as members of the committees, two experts, one qualified to deal with economic, the other with financial questions. A resolution was also made to invite the United States to be represented on the committee on the same basis as other governments. This World Economic Conference convened June 12, 1933, and collapsed shortly thereafter.

It cannot be said that, had reparations not been exacted, Germany would not have had to borrow abroad; but it is reasonably certain that had Germany not suffered such severe setbacks under the Treaty of Versailles, during the early years of reparations payment, and through the inflation, recovery might have been financed out of savings, and certain hardships might have been avoided. A treaty designed to cripple one economy helped to cripple many, for the rest of the world was not spared when the crisis finally developed; its repercussions were universal. Whether reparations had been exacted or not, Germany would have faced severe competition in the quest for markets. However, a more reasonable treaty might not have encouraged the nationalism which resulted in new and higher trade barriers and might not have sown the seeds of a second world war.

CHAPTER III

STANDSTILL AND DEISEN CONTROL

1931-1933

THE FINANCIAL CRISIS of 1931 revealed how vulnerable the German economy was to withdrawals of capital. Indeed, the Layton-Wiggin Report¹ of August 19, 1931, in reviewing the causes and course of the crisis, pointed out that the export surplus was not adequate to meet demands for deisen and that from December 31, 1930, to July 31, 1931, short-term withdrawals of 2.9 billion Rm had taken place. Added to this were sales by foreigners of long-term investments and mortgage bonds in Germany, and purchases, by Germans, of long- and short-term investments abroad. Germans, as well as foreigners, had lost confidence in the mark.²

PURPOSE AND NATURE OF CONTROL MEASURES

Certain consequences were feared if too great a withdrawal of funds from Germany occurred:

1. Calling of short-term credits would deplete gold and deisen reserves and cause liquidation³ and deflation which might result in financial and economic collapse.

2. Exhaustion of currency reserves would result in the fall of the mark exchange which in turn would result in:

- a. An increase in obligations due in foreign currencies.

- b. A rise in import costs and a termination of import credit facilities.

It was principally in order to prevent these consequences, although nominally to prevent the "collapse of the mark exchange," that various controls over international economic relations were established in the summer of 1931.⁴

¹For the full text of the Layton-Wiggin Report see *International Conciliation Pamphlets*, No. 280, for May, 1932, or the *London Economist*, 1931, Supplement for August 21, 1931.

²It is easily understood why German nationals should have lost confidence and have been afraid of inflation. The press depicted the situation in pessimistic terms. Then too, there was every appearance of potential inflation in the decrease of reserves of the Reichsbank, accompanied by an increase in note circulation, necessitated by the domestic hoarding of bank notes.

³Such a liquidation can be occasioned by withdrawal of funds from commercial enterprises, and realization of these funds in marks which are exchanged for foreign exchange or gold if funds are owned by foreigners. The deflationary process starts when the Central bank finds it necessary to protect the ratio of gold to notes outstanding as compared with reserves and may result in a credit crisis which in turn may occasion a commercial crisis, for funds formerly productively employed in business may be sentenced to inactivity or considerably reduced in value. If bank customers had invested short-term loans in projects ordinarily financed by medium- or long-term loans, it was obvious that immediate withdrawal was difficult. If the bank met the loan its position was jeopardized; if the customer was forced to liquidate, the economy suffered. There were no other funds available to take the place of the funds withdrawn, for there was a remarkable shortage of working capital in Germany. For this very reason Germany had resorted to short-term loans. See *Die Bank*, 1931, 1715, 23, article by Alfred Lansburgh on "Die Bedeutung des Stillhaltens."

⁴Many writers have indicated that the purpose of the controls was to prevent the "collapse of the mark exchange" without attempting to analyze the basic reasons for the establishment of the controls. Falling exchanges can be causes of difficulties, but are themselves indicative of, or results of, other difficulties in the internal economic and financial structure which the controls are really trying to circumvent.

Stability of the mark exchange could be accomplished through control of the demand for and supply of means of payment in foreign currencies, "deisen." Even under normal circumstances some deliberate control can be exercised over rates of exchange through such media as general monetary policy, bank rate policy, open market policy, and foreign exchange policy. Paul Einzig, in his book *Exchange Control* has outlined a series of abnormal measures of control, in each of which an effort is made to affect the demand for and supply of means of payment in foreign currencies.⁵

These measures of control include:

- A. Intervention, involving pegging or the reverse.⁶
- B. Exchange restrictions involving:
 1. Restrictions on the movement of capital through control of:
 - a. purchase of foreign exchange;
 - b. import and export of securities;
 - c. import and export of national or foreign bank notes; and
 - d. exports of gold.
 2. Restrictions on speculation in exchanges through control over:
 - a. purchase of foreign currencies by residents of countries concerned;
 - b. operations in spot or forward exchanges; and
 - c. granting of credits in the national currency to foreign residents.
 3. Restrictions on holdings of foreign currencies through:
 - a. measures compelling surrender of foreign currencies obtained through exports; or
 - b. measures compelling the surrender of old balances of securities held abroad.
 4. Restrictions on external debt payment through:
 - a. transfer moratorium, with unrestricted use of the amounts by the creditors within the debtor country;
 - b. restricted use of blocked amounts for special types of investments or exports;
 - c. complete blocking of amounts paid in the domestic currency; and
 - d. compulsory employment of amounts in blocked accounts.
 5. Restrictions on the purchase of foreign currencies by importers through:
 - a. prohibitions on import of luxuries;
 - b. delayed issue of permits for purchases; and
 - c. fixing of quotas for the allotment of deisen.

⁵Einzig, Paul, *Exchange Control*, London, 1936. There is obviously difficulty at times in distinguishing between "normal" and "abnormal" measures of control, for measures "normal" to one period may appear "abnormal" to another.

⁶Reverse would mean a conscious effort to drive down the course of the currency; to wit, the gold purchase plan of the United States. Germany had too little gold or deisen on hand to attempt "pegging."

C. Gold policy, involving nominal retention of the gold standard while the buying or selling price of gold is manipulated.

D. Unilateral, bilateral, and multilateral clearing, obviating the necessity for transfer through the foreign exchange market.

It often happens that public policies, such as the attempt to stimulate business through liberal credit or to divert a larger share of the national income to agriculture through protective tariffs, may indirectly affect rates of foreign exchange. On the other hand, some exchange restrictions serve incidentally the furthering of domestic policies. Indirect measures of exchange control, certain of which would be considered direct measures, depending on whether or not their principal purpose was the safeguarding of the exchanges, include:

A. Import restrictions, such as customs tariffs, quotas, and special import prohibitions.

B. Export encouragement through differential currencies, subsidies, and trade treaties.

C. Private and official barter arrangements.

D. Embargoes on foreign loans, including:

1. Public issues.
2. Securities privately placed.
3. Foreign loans, public or private, unless proceeds are spent on the purchase of national goods.
4. Foreign credits.

In conjunction with these Einzigs might have added three measures which have direct bearing upon foreign exchange rates:

1. The obtaining of foreign credits, whether on short- or long-term.
2. Conversion of short-term debts into long-term debts, thus reducing for the time being the demands for means of repayment.
3. The reduction of principal and interest rates on foreign debts, a factor which would tend to limit the amounts to be transferred. This would properly fall in with restrictions on the external debt payment.

"DEISENBEWIRTSCHAFTUNG"

The primary purpose of foreign exchange control was to prevent the flight of capital and to manage properly *devisen* on hand or about to fall due. Controls over international financial transactions developed parallel to those regulating domestic financial matters. When the crisis reached its climax on July 15, 1931, President von Hindenburg, exercising a

¹Literally, "economization of *devisen*." As used here the term implies "devisen control." *Devisen*, in an economic sense, are claims of one economy against another.

prerogative granted him in Article 48 of the German Constitution,⁸ issued a decree which, in addition to providing measures for the regulation of banking payments and the securities markets at that time when banks might resume payment, empowered the government to provide necessary measures for the regulation of the purchase and sale of foreign money, assets, and bills of exchange. A series of decrees⁹ issued between the 15th and the 30th of July in accordance with the right given the government, were superseded by a comprehensive decree issued August 1, effective as of August 4.¹⁰ Most significant of its provisions were the following:

1. The Reichsbank and the Golddiskontbank were excepted from limitations, and the former was entrusted with control of the foreign exchanges. Purchases might be made through the Reichsbank only with permission of a *Stelle für Devisenbewirtschaftung* (Provincial Revenue Office). Right of purchase and sale might be commissioned by the Reichsbank to other banks.

2. Permission was necessary to dispose of, or purchase, foreign currencies, holdings abroad, or foreign securities, amounting to more than 300 Rm in value.

3. There were two exceptions to the necessity of acquiring permission from the Provincial Revenue Office:

- a. The Reichsbank and its agencies were to carry out agreements made by groups of foreign creditors and domestic debtors regarding obligations existing between the members of these groups, and *the provisions of the Devisen Law were to apply only in so far as their application was not opposed to the fulfilling of obligations arising from such agreements.*

- b. *Interest and regular amortization payments on long-term loans were permissible.* (Italics mine)

4. Future trading in deisen and precious metals was forbidden, and transactions involving domestic currency and foreign currency or securities might be made only at official rates. Violations were punishable.

5. The Minister of Economics and the Provincial Revenue Offices were given authority to demand information regarding the purchase or sale of foreign currencies and securities by private persons or corporations.

6. Foreign currencies and securities acquired after July 12, 1931, (which were not listed on the German bourse), were to be declared to

⁸Article 48 of the Constitution of the German Republic provided that in the event of threat to the public safety and order, measures might be taken by the Reich's president to restore order.

⁹RGBl. I, July 15, 1931, pp. 365 and 366; July 27, 1931, p. 403.

¹⁰*Ibid.*, August 1, 1931, p. 421: "VO des Reichspräsident ueber die Devisenbewirtschaftung." Vom. 1, August, 1931.

the Reichsbank. Permission might be obtained to retain securities or other holdings if it could be proven that deprivation would cause severe economic handicaps.

7. Violations of the restrictions regarding purchase and sale of *devisen* without permission were punishable by fines equal to ten times the sum of the transaction in question, or ten years imprisonment, or both.

8. The *Reichswirtschaftsminister*, in conjunction with the *Reichsminister der Finanzen*, and the *Reichsminister für Ernährung und Landwirtschaft*, was empowered to make decisions and furnish instructions for Provincial Revenue Offices. The German government was empowered to make whatever subsequent laws and regulations might prove necessary.

The London *Economist* prophesied optimistically that the emergency bridges, in the form of control measures, "constructed with such an expenditure of activity and juristic acumen," would soon be rendered unnecessary by international negotiations that were being carried on. For a time at the beginning of August it appeared that the financial situation was tending to ease. Though banks resumed operations on August 5, 1931, there was no extraordinary drain on the Reichsbank.¹¹ At first holdings of *devisen* increased and the note cover tended to rise, primarily because of the decree empowering the Reichsbank to acquire foreign exchange held by German nationals. Despite the fact that domestic financial restrictions were gradually lifted, successive events crystallized measures affecting international financial relations. Not until September 17, 1931, did one of the aforementioned international negotiations come to a conclusion in the signing of the First Standstill Agreement, for which provision had been made in item "3b" of the *devisen* control provisions listed above.

No provisions were made for distribution of *devisen* to importers with current obligations. Though at first the Reichsbank did not feel that it could spare *devisen* for full requirements of importers, and consequently attempted to distinguish between urgent and less urgent imports, decision was finally made to satisfy import requirements without distinctions. *The main purpose of devisen control was the prevention of the use of devisen for the flight of capital, not intervention in the commercial sphere.*¹²

No mention was made concerning exports, but it was implied that incoming *devisen* for the payment of German exports would be declared to the proper authorities. Later it was made compulsory to declare the value of all exports, and surrender the *devisen* to the Reichsbank.

¹¹The banks were reopened, with certain restrictions concerning maximum payments, and even the Danat Bank, whose liabilities had been guaranteed by the law of July 8, reopened with the others. The Bourse was not to open until much later. Trade in securities was resumed September 3, 1931, only to be closed September 18, 1931. The Bourse was again reopened in April, 1932.

¹²*London Economist*, August 15, 1931, p. 310.

Normal measures of exchange control, particularly the discount rate, were applied as well as abnormal measures. Changes in the Reichsbank discount rate may be noted in Table 3:

TABLE 3.—REICHSBANK DISCOUNT RATE, MAY-DECEMBER, 1931

	<i>Per cent</i>
May 31.....	5
June 13.....	7
July 16.....	10
August 1.....	15
September 1.....	8
December 10.....	7

Rate increases were delayed, for the government did not want to precipitate a commercial and financial panic. Once the panic broke, rates rose. The sharp increase of August 1, 1931, was a preliminary to re-opening the banks. Conditions gradually improved, and by May, 1932, the rate had fallen to 5 per cent. This was still considerably higher than the rate in the United States and France.

Before further discussion of deisen control it will be well to examine the course of Standstill discussions and analyze the credits that were involved in the First Standstill Agreement.

STANDSTILL AGREEMENT OF 1931

Before the World War, German merchants had depended upon the London acceptance market in financing foreign trade. By 1931, Germans were even more dependent on the London and New York money markets. Difficulties arose mainly from the fact that short-term loans were used not only for trade transactions but for undertakings that should have been financed out of German savings, or by long-term credits. It was difficult to liquidate these loans on short notice.

Accommodations on short-term were made in three main forms:

1. Acceptance credits by foreign banks to German banks, who in turn granted similar facilities to their own clients.¹³
2. Acceptance credits by foreign banks direct to German traders.
3. Cash advances to German banks and traders.

According to Harris,¹⁴ there were in addition to these short-term acceptance and finance credits, loans by foreign commercial houses to German commercial houses; deposits by foreign commercial houses with German banks; and a miscellaneous assortment of debts, such as the in-

¹³According to the *London Economist*, February 23, 1935, p. 424, "in the case of acceptance credits, foreign banks or acceptance houses only lent their names and the actual financing was provided by the foreign discounters of the bills drawn against those credits, the German beneficiaries remitting the necessary funds to the acceptors of the bills immediately before the bill's maturity." In the case of the cash advances, however, the foreign banks provided the actual finance.

¹⁴Harris, *op. cit.*, page 18.

TABLE 4.—FOREIGN INVESTMENTS IN GERMANY—END OF JULY, 1931
In Millions of Reichsmarks

	Acceptance credits	Other short- term loans	Long-term loans	Total	Contingent liabilities
United States.....	1,495	1,738	6,336	9,479	421
Great Britain.....	886	1,167	1,541	3,595	413
France.....	160	496	440	1,096	97
Italy.....	...	102	68	170	9
Holland.....	263	1,806	1,118	3,187	304
Switzerland.....	236	1,642	1,014	2,892	336
B.I.S.....	...	758	...	758	...
Other countries.....	28	1,281	591	1,900	479
Total.....	2,978	8,991	11,108	23,077	2,059

Source: *London Economist*, "Reparations and War Debts Supplement," January 23, 1932.

vestments of foreigners—individuals, banks, or commercial firms—in German real property, mortgages, and the securities of German joint-stock companies. (See Table 5.)

Foreign indebtedness reached its peak in the middle of 1930, after which loans began to be withdrawn. December 31, 1930, foreign long-term and short-term obligations were 9.2 billion Rm, and 10.3 billion Rm, respectively according to the Wiggin Committee. By July, 1931, these figures had fallen to 9.0 billion and 8.0 billion respectively. Other estimates are indicated in Tables 4 and 5. The figures of the Reich government census shown in Table 5 seem to indicate that the Wiggin Committee had underestimated total investments of foreigners. Table 5 indicates the countries to which short-term debts were owed and the manner of investment.

The Report of the joint meeting of the representatives of the German debtors and their foreign creditors was made in Basle on August 19, 1931. Not until September 17, 1931, did the last of the eleven creditor national groups sign the Standstill Agreement of 1931. This agreement permitted both debtors and creditors to maintain the appearance of solvency, and it allowed creditors to mark off whatever losses they had endured over a period of time rather than immediately. This was significant, for the banking situation in the creditor countries was none too sound.¹⁵

Only a part of the short-term obligations were considered, principally the debts of the foreign banks and commercial houses, "consisting largely of acceptance and other documentary credits employed in financing Germany's imports and exports, time deposits, and cash advances."¹⁶

¹⁵*London Economist*, "Reparations and War Debts Supplement," January 23, 1932.

¹⁶Harris, *op. cit.*, p. 19.

TABLE 5.—FOREIGN SHORT-TERM CREDITS IN GERMANY, JULY 28, 1931
In Millions of Reichsmarks

Lending country	United States of America	United Kingdom	France	Italy	Holland	Switzerland	B.I.S.	Belgium	Sweden	Rest	Total
Lent by:											
Banks to banks.....	1,724	1,083	279	10	458	621	364	83	38	234	4,804
Banks to individual and commercial.....	389	596	50	2	793	597	...	8	22	108	2,385
Banks to public bodies.....	116	65	24	..	18	63	...	..	13	6	305
Banks to Reichsbank and Golddiskontbank.....	210	21	5	..	...	...	394	..	..	...	630
Individual and commercial to individual and commercial.....	491	318	163	53	587	333	...	90	65	495	2,595
Individual and commercial to banks.....	201	38	128	32	189	325	...	12	58	34	1,017
Other foreign creditors to other German debtors.....	12	23	7	5	24	29	...	2	9	32	143
Total.....	3,143	2,054	656	102	2,069	1,878	758	195	205	909	11,969

Source: *London Economist*, "Reparations and War Debts Supplement," January 23, 1932, p. 16.

Since the credits affected covered but 6.3 billion Rm, a difference of 5.7 billion Rm fell under direct supervision of devisa control authorities.¹⁷

Four fundamental principles of utmost importance were embodied in the agreement:¹⁸

1. It preserved individual relations between creditor and debtor without interposing governmental responsibility.

2. It preserved the terms of the original contract, neither improving nor worsening the conditions on which the credits had been granted in the first instance.

3. It preserved the debtor's liability for his debt in foreign currencies, both as to principal and interest, which was to be paid as it fell due.

4. It scrupulously affirmed the principle of no discrimination between creditors.¹⁹

Foreign banks obligated themselves, with certain exceptions, not to withdraw or call acceptances, time deposits, cash advances, etc., providing they were in existence on July 31, 1931, or were thereafter granted up to a date within twenty-one days after the agreement came into effect. The agreement was to be operative for six months from September 1, 1931.²⁰

Foreign creditors insisted upon certain guarantees and received them in that:

1. German banks were required to get from their customers acceptance or promissory notes in the amount, of the same date, and of the same currency as the original sum which the German bank owed. These were held in trust or sent to the foreign bank. In some cases German bank customers could be required to guarantee bank acceptance credits, and secure the guarantee by charges on goods or merchandise underlying the transaction.

2. The Golddiskontbank, whose assets in turn were guaranteed by the leading industries²¹ in Germany, was forced to take responsibility for repayment of credits to the extent that:

a. Each foreign bank could request the Deutsche Golddiskontbank to assume 10 per cent of the outstanding acceptances drawn on

¹⁷Short-term advances to the municipalities and states, and special credits for financing crops, call loans, short loans, against stock exchange securities and mortgages, and claims in respect of breaches of contract, as well as certain direct advances to German commercial houses, fell under the devisa control authorities.

¹⁸Harris, *op. cit.*, p. 25.

¹⁹This principle was not observed in the subsequent negotiations over the long-term debts.

²⁰For detailed material concerning the 1931 Standstill Agreement see the following: *London Economist*, September 19, 1931, pp. 513, 518; October 31, 1931, p. 804; November 21, 1931, p. 951; December 5, 1931, p. 1063; December 12, 1931, p. 1108; December 19, 1931, p. 1171. Salin, Edgar, *Wirtschaftsdienst*, August 21, 1931, p. 1472; August 28, 1931, p. 1493, "Deutschland und der Layton Bericht"; Salin, Edgar, "Stillhalten?" September 11, 1931, p. 1561. See also Harris, *op. cit.*, Chapter III. The Standstill Agreement was put into effect by a law published in the *Reichsgesetzblatt*, and modifications of the agreement were subsequently registered as laws. See *RGBl. I*, 1931, pp. 489, 490, 509, 680.

²¹*RGBl. I*, 1931, July 8, p. 351: "VO des Reichspräsidenten ueber die Schaffung einer Wirtschaftsguarantie." This Emergency Decree provided for the guaranteeing of the Golddiskontbank by firms whose total capitalization was more than 5 billion Rm to the extent of 500 million Rm. See also the "Durchführungsverordnung," *RGBl. I*, 1931, July 9, p. 353.

German banks or having their guarantee or 15 per cent of other forms of indebtedness.

b. Where credits had gone directly to German commercial or industrial organizations without a German bank guarantee, foreign creditors could have 10 per cent of the sum guaranteed by the Gold-diskontbank.

c. Where the firm involved had no open balance, or, possessing an open balance, was not a member of the Guarantee Syndicate of the Deutsche Golddiskontbank, a 20 per cent guarantee might be requested.

In addition to the above guarantee were the following provisions:

1. German debtors were required to cover all acceptances on maturity with cash or "replacement" bills eligible for rediscount in creditor countries. Creditors could demand evidence that transactions were genuinely commercial. Where evidence was inadequate creditors could transform obligations into cash advances at higher rates or request the substitution of a drawer of good standing.

2. Twenty-five per cent of mark claims were to be set free upon ratification of the agreement. Thereafter, 15 per cent were to be released monthly.

3. Encashments received from German clients were to be remitted immediately to the foreign bank creditor. If no devisen were available, they might be deposited in a mark account and, after 90 days, be disposed of in any manner possible.

4. Germany was assured that if the Reichsbank, in the interest of reichsmark stability should so decide, marks credits were not to be transferred, but paid into a special account at the Reichsbank.

5. German debtors were to bear the cost of administering arrangements, and the Reichsbank was to offer guarantees against certain losses due to currency fluctuations.

6. In the case of joint accounts, the share of the risk taken over by the German bank was to be treated as a credit to that bank, and the difference as a direct credit to the German debtor.

There was far from complete agreement in all phases of the settlement. Some Germans thought they were back where they had started in the London Conference of July 20-23. A number of objections were advanced:²²

1. The arrangements dealt with credits falling due after July 31, 1931, thus leaving open for withdrawal all those credits, about 520 million Rm, which had fallen due during the period of the German banking moratorium, July 13 to August 1.²³

²²*Wirtschaftsdienst*, August 21, 1931, p. 1172.

²³It must be noted that these repayments would have been subject to supervision by the devisen authorities.

2. Repayment of mark credits to foreigners seemed an overly great burden.²⁴

3. Arrangements covered bank debts, but not public credits, direct credits to trade and industry, and credits to foreign branches of German firms.

4. Additional guarantees for reimbursement credits placed an unnecessary handicap upon the credit mechanism.²⁵

5. The Golddiskontbank (and indirectly German industry) was saddled with the additional burden of guarantees. Guarantees forced upon bank customers seemed unjust, for the customer was, in many cases, unaware of his having indirectly received foreign money.²⁶

6. Rates of interest seemed excessive in certain cases.²⁷

7. There was little hope of transferring all short-term into long-term credits, or of repaying the sums at the end of six months, unless exports boomed—a very remote possibility.

Because of the many problems inherent in the First Standstill Agreement, and because of its short duration, it seemed advisable that negotiations for the subsequent Standstill Agreement begin well in advance.²⁸

Despite the favorable trade balance, holdings of gold and devisa at the Reichsbank did not show an encouraging increase²⁹ (see Appendix I). Authorities in Berlin and Paris pondered the future of Germany's liabilities. November 19, 1931, the German government requested the BIS to convene the Special Advisory Committee for which provision was

²⁴This was true of the original arrangement to transfer mark credits, some 750 million Rm, at once, but the subsequent arrangements to transfer 25 per cent at the beginning, and 15 per cent monthly was less severe, though still disturbing; for if these sums in marks were sold to foreign importers for purchases of German goods, Germany was deprived of foreign exchange. If mark notes went abroad, they tended to depress mark exchange, and it was necessary for the Reichsbank to buy them up. The arrangements which were made with regard to the notes returning into Germany is indicated on page 43.

²⁵The German debtor had to cover acceptances at maturity with cash payments, or out of proceeds of replacement drafts, make every effort to provide a foreign bank creditor with eligible bills for acceptance, and give evidence of the true commercial nature of transactions. The foreign creditor might also request the German bank to substitute a drawer of good credit standing for one of bad standing. Contrary to the intention of this clause, some foreign banks assumed the right to control credit by demanding from the banks special information, even about firms with high standing, insisted that accounts be kept in specified form, and that additional expenses be borne by the individual firms.

²⁶*London Economist*, 1931, p. 804.

²⁷*Ibid.* In some cases these rates were two and three times as high as those prevailing before the agreement came into force. In this connection particular annoyance was caused by the attitude of Dutch and Swiss banks, who charged about 8 per cent on overdrafts to German banks while allowing the latter 0.5 per cent on deposits.

²⁸Harris, *op. cit.*, pp. 26, 27. "The arrangement thus somewhat hastily concluded to tide over a six months' period did not, indeed, solve the whole problem of these debts. It hardly made any attempt to distinguish between solvent and insolvent debtors and to write off the latter, nor did it make any arrangements for the consolidation of those debts which were obviously "frozen" into medium- and long-term loans, as recommended in the report of the Wiggan Committee, but it did succeed in meeting the most pressing emergencies."

²⁹According to the German Press "The Reichsbank received a total of 1,297 million Rm, in foreign exchange between September 1, and November 7, 1931, while 1,761 million Rm were withdrawn. The difference was met out of Reichsbank holdings. Imports required 784 million Rm, and a further 35 million Rm was used for insurance, freight duties, postal cheques transfers, etc. No less than 942 million Rm went in meeting capital obligations, 690 million for repayment of credits, 187 million for interest and amortization of long-term debts, 57 million for sundry items, and 8 million for the purchase of silver. This shows that without credit repayments of the Reichsbank in the nine weeks, the Reichsbank would not have shown these losses, but would have strengthened its foreign exchange reserves."

made in the Young Plan. Deliberations of this Committee, made public in the Beneduce Report³⁰ of December 7, 1931, and results of the Lausanne Conference were discussed in Chapter II.

While the Advisory Committee was meeting in Basle an international committee representing Germany's short-term banking creditors proceeded to Berlin after preliminary meetings in Paris. In Berlin they were to consider the policy to be adopted at the expiration, on February 29, 1932, of the First Standstill Agreement. The pending negotiations regarding reparations certainly affected these representatives in their deliberations. A Second Standstill Agreement was announced January 23, 1932. However, Standstill adjustments did not solve all debt problems. No definite arrangements had been made with respect to short-term obligations of private industries and municipalities to foreigners, and the problems of converting short-term into long- or medium-term debts, reducing service charges, and inducing long-term loans from foreigners still remained.

Germany needed long-term credits and an active trade balance. Confidence did not permit the former; internal and external economic developments prevented the latter. The fall of the English pound and those currencies linked to the pound, the adoption of protectionism in England, the adverse decision to the Austro-German Customs Union,³¹ the introduction of import quotas and the cessation of former commercial relations with Germany on the part of Switzerland,³² increased Russian dumping,³³ and a general increase in world trade barriers furnished serious handicaps to German foreign trade and shipping. Germany might have been spared certain difficulties had the currency been devalued. However, the Reichsbank president, Dr. Luther, stood firm against such a move.³⁴

Domestic problems became acute. Further cuts in government expenditures were made by a Third Emergency Decree of October 6.³⁵ The Emergency Measures taken by Brüning found favor with neither the parties to his right, nor to his left, and further political complications

³⁰For further material regarding the Beneduce Report, see International Conciliation Pamphlet number 279, April, 1932, pp. 217 ff. Salin, Edgar, "Tributzahlung oder Kreditrückzahlung," *Wirtschaftsdienst*, XVI, Heft 42, December 29, 1931, p. 1965; "Das Gutachten von Basel," *ibid.*, p. 2069. See *London Economist*, January 2, 1932, for full text of Beneduce Report.

³¹An eight to seven decision against the Customs Union proposal was rendered by the Hague Tribunal on September 3, 1931.

³²The Swiss discontinued the Commercial Treaty with Germany on December 18, 1931, effective after February 4, 1932. A period of grace was allowed during which time negotiations for a new treaty might be carried on.

³³For details see *Wirtschaftsdienst*, October 9, 1931, p. 1721; October 16, 1931, p. 1737.

³⁴Dr. Luther stated his views regarding devaluation as a possibility in an address before the Meeting of the German Savings Banks at the close of September, and laid particular emphasis upon the fact that Germany's foreign indebtedness would be increased by such a movement. For a review of this speech see the *London Economist*, October 3, 1931, p. 613.

³⁵*RGBl.* I, 1931, October 7, p. 537: "Dritte VO des Reichspräsidenten zur Sicherung von Wirtschaft und Finanzen und zur Bekämpfung politischer Ausschreitungen."

resulted.³⁶ Though the Reichsbank lowered the discount rate, it was no easy matter to decide, for despite an active trade balance, holdings of gold and devisen continued to fall.³⁷ (See Appendix I.)

CHANGES IN THE DEVISEN LAWS, AUGUST, 1931-MAY, 1932

Major changes in the devisen control mechanism during the period August 1, 1931, to May 23, 1932, at which time all devisen laws were codified, were as follows:

1. By successive decrees it was required that holdings of foreign exchange over a minimum of 200 Rm be declared. The previous minimum had been 20,000 Rm. Funds acquired after October 2, 1931, were to be declared whether they amounted to 200 Rm or not.³⁸

2. The Reichsbank was designated as sole authority for determining whether individuals or corporations might, for adequate economic reasons, be permitted to retain holdings of foreign securities and devisen.³⁹

3. Forward dealing in foreign exchange was possible only with permission of the Provincial Revenue Office, subject to consent of the Reichsbank.⁴⁰

4. The free limit (*Freigrenze*) within which currency, etc., might be taken over the border was reduced gradually from 3000 Rm to 200 Rm.⁴¹

5. Necessity for permission to make purchases of foreign securities was extended to foreign shares quoted on the German bourse, and to German loans quoted on foreign bourses.⁴² If German securities expressed in foreign currencies were bought for the purpose of gradual amortization, permission could be granted. Foreign holders of German securities might sell them, but the proceeds could not be transferred abroad without permission.⁴³

6. To prevent the flight of capital owned by Germans, whenever interest coupons were presented for payment proof had to be given that they were the *bone fide* possession of foreigners.⁴⁴

7. Permission from the Provincial Revenue Office was necessary for the using of foreign owned claims within Germany, and disposition of

³⁶*London Economist*, September 5, 1931, p. 431; October 10, p. 659; October 24, p. 750. However, the revised Brüning Cabinet survived a non-confidence motion in the Reichstag, and the Reichstag was adjourned till February, 1932.

³⁷There had been a temporary increase in devisen when the government forced the declaration of private holdings. However, it was obvious that some gaps were still open, for the Reichsbank reserve continued to fall thereafter. Certain of these withdrawals were due to the paying out of foreign mark deposits, of which, under the Basle Agreement, 25 per cent had to be paid. See the *London Economist*, October 10, 1931, p. 659.

³⁸RGBl. I, August 30, 1931, p. 461 (III Durchf. VO); September 5, 1931, p. 477 (IV Durchf. VO); October 3, 1931, p. 533 (VI Durchf. VO).

³⁹*Ibid.*, August 26, 1931, p. 453 (II Durchf. VO).

⁴⁰*Ibid.*, and RGBl. I, December 12, 1931, p. 749 (IX Durchf. VO).

⁴¹RGBl. I, October 3, 1931, p. 533 (VI Durchf. VO).

⁴²*Ibid.*, November 14, 1931, p. 673 (VII Durchf. VO).

⁴³See also *London Economist*, Nov. 21, 1931, p. 957.

⁴⁴RGBl. I, February 22, 1932, p. 79 (X Durchf. VO).

German bank notes sent in from abroad. Persons who entered Germany after the setting up of deisen controls had to get permission to use certain claims.⁴⁵

8. It was necessary to declare the value of exports in order that a close check might be made of incoming deisen. Deisen from export sales had to be turned over to the Reichsbank.⁴⁶

For the greater part, the *Neuauffassung* of May 23, 1932,⁴⁷ was a restatement of the regulations of August, 1931, and the subsequent *Durchführungsverordnungen*, the principal contents of which were just noted. In conjunction with the *Richtlinien*⁴⁸ of June 28, 1932, this restatement gave a rather complete picture of the control system which had developed.

A summary of the above-mentioned decrees reveals how both the demand for and supply of deisen were affected:

1. The Reichsbank monopolized deisen and precious metals, though the right to buy and sell deisen might be commissioned to other agencies, controlled all trading in futures, and set exchange rates. There was:

- a. Compulsion to declare deisen and securities to the Reichsbank.
- b. Compulsion to surrender incoming payments from abroad, whether from the sale of property, goods, or services.
- c. Control of precious metals, even for use in the arts.

2. Control over domestic currency in order to prevent its exports was facilitated by the following:

- a. Severe penalties were levied for taking more than limited sums over the border, without permission.
- b. With certain exceptions, foreign creditors were not permitted to receive payment freely in German money, and payments were made into "blocked accounts."
- c. Incoming German bank notes were placed in special accounts (*Notensperrkonten*) from which they might be withdrawn only for special purposes.

3. Permission from the Provincial Revenue Office was necessary for purchase of deisen or foreign securities.⁴⁹ Purchase permits might be obtained for:

- a. Legitimate imports, services in import trade, such as transportation, ships supplies, etc., and other incidental costs.
- b. Interest and amortization on long-term debts, as well as commissions, charges, and running interest on short-term debts.

⁴⁵*Ibid.*

⁴⁶*Ibid.*, 1931, November 20, p. 683 (VIII Durchf. VO).

⁴⁷*Ibid.*, 1932, May 23, p. 231.

⁴⁸*Ibid.*, 1932, June 28, p. 317. Naturally the *Richtlinien* did not cover all of the detailed material regarding the regulation of deisen which had been previously put out.

⁴⁹Ultimately the Minister of Economics, in conjunction with the Minister of Finance and the Minister of Agriculture could determine the policy or the powers of the Revenue Offices, with respect to deisen matters, in their issuance of *Richtlinien*.

c. Business trips (with permission of the *Handelskammer*), consular services, wages and salaries of employees abroad, certain insurance payments, pensions, and lottery prizes.

d. Ordinary trips over the border, for which a maximum of 200 Rm per month might be taken, certain recuperative and pleasure trips, for which more might be granted.

e. Emigrants, who might get 10,000 Rm if necessary.⁵⁰

f. Border traffic (*Kleingrenzverkehr*), which was subject to certain leniencies.

4. Repayment of capital invested or deposited in Germany was possible:

a. Within the bounds of the Standstill Agreements.

b. When the Minister of Economics decided that failure to repay would result in unnecessary hardship for individuals involved.

c. Within limits specified for the release of various "blocked accounts."⁵¹

STANDSTILL AGREEMENT OF 1932

Reparations were still unsettled when a Second Standstill Agreement was negotiated. Consequently, the agreement reached was contingent and for a limited period. In order not to weaken Germany further, and to permit the German recuperative powers to function, the Committee aimed at a flexible plan to permit additional repayments on the Standstill account when and as Reichsbank transfer facilities permitted.⁵²

The outstanding features of the Plan of 1932 are indicated in the following résumé:⁵³

1. The credits were to be maintained from March 1, 1932, to February 28, 1933, though they might be terminated earlier, if the central banks under the supervision of the BIS failed to renew the rediscount advances to Germany, if there were any particular danger to the carrying out of the agreement, or if a moratorium were declared.

2. Foreign bank creditors could require initial permanent reduction by 10 per cent as of March, 1932, of total short-term credit lines held at the disposal of German debtors on October 8, 1931.⁵⁴

⁵⁰Other funds of emigrants were subject to the same conditions as those governing funds of foreigners.

⁵¹Such funds might be released for purchase of certain German securities, for purchase of goods for exports or consumption in Germany, etc. See Appendix II.

⁵²The Committee observed that Germany's short-term debts represented funds which were, on the whole, soundly used for business purposes; and that credits were for the most part carefully given and represented strong names. The latter was demonstrated by the magnitude of repayments, amounting to 5 million Rm, since the autumn of 1931. This abnormal rate of repayment forced by the crisis, weakened the Reichsbank and the whole credit structure and affected German liquidity. *London Economist*, January 30, 1932, p. 221.

⁵³For full text see *London Economist*, January 30, 1932, p. 224. German comment may be found in *Wirtschaftsdienst*, XVII Heft 2, January 15, 1932, p. 49; Heft 4, January 29, 1932, p. 117. See also Harris, *op. cit.*, Chapter III.

⁵⁴Still further reductions might be made in accordance with agreements which might be reached at subsequent quarterly meetings, to be held July 1, 1932, October 1, 1932, and January 4, 1933. Proper notice had to be given to the German debtor who might be affected by such a reduction.

3. Provision was made for the funding of unsecured cash advances.⁵⁵
4. Certain provisions were made regarding the conversion of credits:
 - a. Foreign bank creditors could convert acceptance credits into cash advances or arrange for repayment of any time deposit or cash advance, on condition that they place acceptance credits in corresponding amounts at the disposal of German debtors.
 - b. Foreign bank creditors could convert into reichsmarks their unused cash advances existing and outstanding on February 29, 1932, and such unsecured cash advances as were not included in the 1931 Agreement, but which were included in the 1932 Agreement, for investments in:
 1. German real estate mortgages of five years minimum duration;
 2. shares, mortgage certificates, bonds and debentures, and other securities of whatever description, with the provision that the same securities be "blocked" for five years, and
 3. real estate, fixed plant, and property.⁵⁶
5. Rights to further extension of credit lines might be withdrawn from insolvent debtors.
6. The Reichsbank assumed responsibility for making available whatever foreign exchange it could to enable German debtors to discharge obligations, though the Reichsbank could notify foreign central banks if its position were endangered thereby.
7. Arrangements were made for the meeting of committees representing creditors and debtors and for an arbitration committee to judge disputes arising between debtors and creditors.
8. The German Golddiskontbank was to repay its obligations by three equal yearly installments.⁵⁷

⁵⁵Each German bank debtor was to give the Reichsbank on March 1, 1932, particulars of all cash advances granted by foreign bank creditors existing on February 29, 1932, unsecured by guarantee or otherwise, and deliver, for the creation of a trust fund, assets equal to 15 per cent of the face value of such unsecured cash advances. These assets equaled about 221 million Rm. This trust fund was to be maintained, though securities might be substituted or given back if the volume of the total was reduced. The Reichsbank could issue collateral trust certificates, equivalent to the sum of the unsecured cash advances, which could be given the foreign creditor at his request. The certificates were redeemable by half-yearly percentage payments to begin September 1, 1932. This amounted to a virtual funding of the unsecured cash advances into a ten year loan which bore 6 per cent interest. A German commercial or industrial debtor might, in respect of unsecured cash advances from foreign bank creditors existing on February 29, 1932, take advantage of the machinery for a trust fund, and certificate issue, providing that the consent, in writing, of all his foreign bank creditors be obtained.

⁵⁶No foreign bank creditor could, unless his German debtor agreed, convert in any consecutive six-month period more than 25 per cent of his outstanding credit balances with the German debtor. In the case of German commercial or industrial debtors he could not convert more than 15 per cent of his outstanding credit balances in any six-month period during the first two years, and 20 per cent in any consecutive six-month period during the third year. According to *Wirtschaftsdienst*, XVIII, Heft 4, January 29, 1932, p. 117: "Diese Konsolidierungsmöglichkeit durchbricht endlich die verfehlte Fiktion der Kurzfristigkeit der Kredite. Sie bedeutet daher einen ersten Schritt zu einer wirtschaftlich vernünftigen Lösung des Stillhalteproblems. Es handelt sich hierbei jedoch um insgesamt 1, 3 Milliarden Rm Auslandsdepositen, die innerhalb der relativ kurzen Frist von zwei Jahren den Banken abgezogen und dem Inlandsmarkt zugeführt werden können ohne dass für die Betroffenen einen Ausgleich vorgesehen wurde."

⁵⁷This would require the payment of sums set aside in it under the 1931 arrangements which had not been paid, within the percentages, and subject to the terms and conditions contained in the 1931 Agreement. In lieu of taking over short-term credit lines or parts thereof

The German government created a new Foreign Debts Committee to administer all fundamentals of German foreign debts.⁵⁸ The Committee's tasks included:

1. Cooperation in advisory capacity with the German government and Reichsbank.
2. Investigation of those German foreign debts whose individual character had not been cleared up.
3. Arrangement of negotiations necessitated by the devisa situation in respect of debts not covered by the 1932 Agreement.

Because of exchange difficulties, no provisions were made for immediate cash repayments of short-term banking credits. Accordingly, foreign banking creditors assumed no capital payments to other creditors would take place unless deemed absolutely necessary by the Debts Committee to maintain German credit abroad. They demanded uniform treatment for all short-term debts.⁵⁹

The conclusion of the Agreement of 1932 was one ray of light in an otherwise gloomy outlook for international politics. Even at that, the agreement left certain unsatisfactory features:⁶⁰

1. The interest problem was unsolved, for rates were not lowered.
2. Foreign creditors had the right to terminate the agreement if they disagreed with the Reichsbank regarding transfer possibilities.
3. The extension of the agreement depended on prolongation of the central banks' credit to Germany.⁶¹

Although in November, 1931, the Reichsbank had announced a total short-term indebtedness some 4 billion Rm in excess of the figures given in the Wiggan Report, the report of the Creditors' Committee confirmed the Wiggan estimate. The difference, for the greater part, was believed by the Committee to consist of debts by German firms to foreign subsidiaries, or of German subsidiaries to their foreign parent firms, or of other forms of industrial participations which only theoretically constitute short-term indebtedness.⁶² The total short-term indebtedness in the early part of 1932 may be seen in Table 9. It must be remembered that the fall of the pound was one of the contributing factors in the reduction of Germany's short-term indebtedness.⁶³

pursuant to the provisions of the 1931 Agreement, the Golddiskontbank was to guarantee, and be deemed always liable as guarantors of, the obligations of the German debtors in respect of such short-term credit lines or parts thereof.

⁵⁸*RGBl.* I, 1932, February 3, p. 35: "VO ueber die Bildung eines Ausschusses für Auslandsschulden." The Committee was to consist of at least six members. One member was to be named by the government, one by the Reichsbank, and three others by the government and Reichsbank together out of those members of the economic community who had a part in the foreign debt. In the event that a Chairman was named who was not already a member of the Committee, he was to become the sixth member.

⁵⁹Long-term creditors later insisted upon similar treatment.

⁶⁰*London Economist*, January 30, 1932, p. 235.

⁶¹The credits were finally renewed after considerable discussion. Schacht later repaid them in 1933.

⁶²*London Economist*, January 30, 1932, p. 235.

⁶³Harris, *op. cit.*, p. 27. "Owing partly to the depreciation of sterling and partly to actual repayments, Germany's total short-term indebtedness, which had been as high as 13.1 billion Rm at the end of July, 1931, had fallen by February, 1932, to 10.5 billion Rm."

MUNICIPAL STANDSTILL AGREEMENT OF 1932

An agreement covering those short-term debts to the German States, Communes, Associations of Communes, and other public bodies, which had not been included in the General Standstill Agreement of February, 1932, was put into operation March 15, 1932. A relatively small sum of some 250 million Rm was involved, in the repayment of which eight States (including the *Hansestädte*) and twenty-two Communes participated.

Certain opportunities for conversion such as had been provided in the General Agreement of January 23, 1932, were also available to these debtors, and provision was made for:⁶⁴

1. An immediate initial repayment of 10 per cent.⁶⁵
2. Additional repayments, as conditions permitted, into free marks or foreign currencies, or into blocked accounts.⁶⁶
3. An interest rate of 6 per cent with a surcharge applicable where the bank rate in the creditors country was higher than 4 per cent.⁶⁷
4. Extension to the creditor of the privilege of investing "blocked accounts" for minimum periods of five years.
5. Extension to creditors of the option of changing blocked reichsmarks into acceptance credits or advances in foreign currencies to be extended to German banks or commercial or industrial firms, these credits to be regulated by the short-term Standstill Agreement of 1932.⁶⁸

Significant also was an agreement to extend the *Ueberbrückungskredit*⁶⁹ of November, 1930, amounting to some 525 million Rm under somewhat the same conditions as contained in the agreement with the Municipalities.⁷⁰ Both agreements were entirely consistent with the former policy of non-discrimination in repayments of foreign funds.

SHORT-TERM CREDITS OUTSIDE THE STANDSTILL AGREEMENTS

Credits granted by foreigners to German industries and commercial houses, etc., before July 16, 1931,⁷¹ and not subject to Standstill arrange-

⁶⁴Harris, *op. cit.*, Appendix VI and *Wirtschaftsdienst*, XVII, April 15, 1932, p. 511.

⁶⁵Special clauses were also introduced to the effect that repayments of more than 10 per cent might not be made to domestic creditors.

⁶⁶However, where the obligation was expressed in a foreign currency originally, mere repayment in the form of marks did not end the debtor's obligation, for if possible, he had to provide foreign currencies if they were available.

⁶⁷This rate was considerably under some of the original rates and amounted to a saving.

⁶⁸The investment of these funds in any of the manners specified released the debtor from his obligations to make repayments in foreign currencies. Funds transferred to the supervision of the Standstill Agreement of 1932 were later listed under that agreement.

⁶⁹*Wirtschaftsdienst*, XVII, April 15, 1932, p. 511. This credit, the consortium for which was led by Lee Higginson and Co., was prolonged until November 10, 1933. Provision was made for an amortization payment of 15.5 million dollars for the middle of June, 1932, and for monthly repayments of around 3 million Rm from August, 1932, on. Rates of interest were to be 6 per cent.

⁷⁰For laws putting the Municipal Agreement into operation under the supervision of the government see *RGBl.* I, 1932, June 3, pp. 246, 247: "VO des Reichspräsidenten über das Kreditabkommen für Deutsche öffentliche Schuldner" and the "Durchführungsverordnung."

⁷¹Such claims were designated as "*alte Kredite*." Credits granted Germany after this date were "free" in the sense that they could be realized in free marks or foreign currencies.

ments,⁷² could not be transferred into foreign currencies or into reichsmarks at will. Such credits were subject to the following provisions:

1. Permission for repayment might be granted if denial would result in severe privation to the creditor or difficulties to the debtor.

2. Repayments were made into special accounts, *Sperrkonten*, from which funds might be released with permission into:

- a. Free reichsmark or foreign currencies.

- b. Investments similar to those open to certain of the funds under the Standstill Agreements, namely, five year mortgages, bonds, etc.⁷³

Permission to withdraw bank claims in the names of foreigners was not to be granted if those claims were not covered by the Standstill arrangements. Such funds might be used:

1. To meet current obligations in Germany in part, if the difference were made up in free reichsmarks.

2. To cover immediate personal expenses of the creditor in trips in Germany, etc.

3. To make investments on long term, in which case a certain percentage might be released at six-month intervals.

Here, too, if non-repayment would result in unnecessarily great hardships, special concessions for transfer might be obtained from the Minister of Economics. The right to transfer interest and amortization on long-term debts was fully respected until the Moratorium of June, 1933.

Funds realized by foreigners through the sale of properties, securities, mortgages, etc.,⁷⁴ were also subject to transfer restrictions, and had to be paid into "Credit Blocked Accounts," such marks being designated as *Kreditsperrmark*. These might be used for:

1. Purchase of German reichsmark securities.

2. Long-term investments in Germany.

3. Non-business journey expenses in Germany.

4. Personal or philanthropic gifts.

5. Expenses of administering the blocked account, and special taxes.

6. Payment of 25 per cent of the invoice price of new orders of German goods or services of German firms, providing the remaining 75 per cent be paid in foreign currency or free reichsmarks.⁷⁵

GERMAN FOREIGN TRADE

At first no effort was made to control the source and character of imports through discriminations in granting *devisen*. Since fewer *devisen* were available for imports as time passed, a certain quota of *devisen*,

⁷²The Standstill credits did not fall under the supervision of the *devisen* control offices, for the agreements contained all necessary particulars.

⁷³*RGBl.* I, June 28, 1932, p. 317: "Richtlinien für die Devisenbewirtschaftung."

⁷⁴DOOT, *Economic Conditions in Germany*, March, 1936, p. 32.

⁷⁵When payment agreements were later made with certain countries, such permission was not granted for those countries. The percentages of free reichsmarks were later varied.

based upon the number of deisen required for imports during a base period was set up, and successively smaller percentages of this sum were available. This matter receives attention in Chapter V.⁷⁶

As previously noted, it was necessary to declare all deisen and foreign securities to the Reichsbank. However, in the case of claims on the countries, of southeast and central Europe, mere declaration did little good, for the introduction of exchange controls and other restrictions in those countries made it impossible to receive payments from them. Consequently, it was necessary to establish clearing agreements to collect debts. The unfortunate part of having funds frozen in other countries was that Germany could not call them back when they were most needed, but had to liquidate them gradually. These clearing agreements are considered in Chapter VII. Certain of the agreements were made for the purpose of maintaining an active trade balance with the countries in question.

It was highly desirable to prevent any large quantity of German bank notes from getting over the border into foreign countries where they might be sold at a discount for foreign currencies. In the first place, the "black bourse" registered too closely the real international value of the currency; for another thing, if such notes could be smuggled back into Germany they were a means of paying for exports, to the end that those exports resulted in no increase in deisen. Certain of the deisen laws were designed to prevent the flight of currency.⁷⁷

Despite attempts to stimulate exports,⁷⁸ the balance of trade became less and less favorable throughout the year 1932 and the early part of 1933. Business conditions in Germany, though not improving, tended to become worse at a slower rate. Bankruptcies fell off, the production index after reaching a low of 50.8 in August, 1932, revived spasmodically, and by August, 1933, was up to 62.9. Shares followed substantially the same course as production, but unemployment increased through the turn of the year. The inauguration of Hitler's re-employment program brought an abrupt halt to the increase in unemployment, though it must be added that the von Papen and von Schleicher governments, which had supplanted the deflationist program of Brüning with measures for public spending also contributed to the cutting down of the growth of unemployment. These same inflationary measures tended to handicap exports.

⁷⁶For an analysis of the degree of control over imports see *RGBl. I*, June 28, 1932, p. 317, *Richtlinien für die Deutschebewirtschaftung*, III Abschnitt, "Richtlinien für besondere Gruppen von Beschäften," A. Warenverkehr—Einfuhr.

⁷⁷*RGBl. I*, 1932, May 20, p. 278: "IV. VO zur Durchführung der VO über die Deisenbewirtschaftung." The *Reichszollverwaltung*, *Reichspostminister*, *Hauptverwaltung der Eisenbahngesellschaft*, *Reichsfinanzminister*, and the district authorities were required to make necessary provisions to prevent the flight of German currency. Severe punishments were levied for violations.

⁷⁸Namely, through the use of "blocked accounts," sold at a discount, and through the repurchase of "dollar bonds," both of which procedures are discussed in detail in Chapter VI.

The decline in the export balance and the diminution of the gold and devisen holdings made it clear that if such decreases were to continue, Germany would have to cut down still further on the repayment of debt charges.⁷⁹ The fall in exports⁸⁰ made not only the question of repayments on debts dubious, but also the financing of further imports of raw materials.⁸¹

New suggestions were made regarding Standstill credits,⁸² a favorite idea being that Standstill credits, with the exception of genuine acceptance credits, be replaced by government bonds. These bonds might then be used along with "dollar bonds" as another means of financing "additional exports."⁸³ The only other solution to the Standstill problem seemed the arrival of such a time when the funds, if released in Germany, would remain there of their own volition. Because of political developments, lack of confidence did not permit this.

STANDSTILL AGREEMENTS OF 1933

A Third Standstill Agreement⁸⁴ of February 17, 1933, provided neither the funding for which the Germans had hoped, nor the repayment of the debt in installments for which the creditors had hoped. However, there were some prospects for a slow thawing of frozen debts. The following adjustments were made:

1. The 10 per cent reduction in unused credit lines was reduced to 5 per cent.

2. Opportunity was given for the right to demand payment on all credits, secured or unsecured, within the following bounds.⁸⁵

- a. In the case of non-banking debtors, 20 per cent of secured credits might be withdrawn annually, and in the case of banking debtors, 30 per cent.

- b. In addition to these limitations on the proportionate repayments by individual firms, creditors might convert annually only 20 per cent of their total claims on all banks, 15 per cent of their advances to non-bankers, and 10 per cent of the acceptances of non-bankers.

3. Marks repaid were to be inscribed in a special register at the Reichsbank and were designated as Registered Marks. They might be used for:⁸⁶

- a. specified long-term investments;

⁷⁹*Wirtschaftsdienst*, XVII, July 29, 1932, p. 1029. There was a constant cry for the reduction of interest rates. According to *Wirtschaftsdienst*, XVII, September 2, 1932, p. 1190, the proportion of repayments of interest and amortization to the total debt was something like 8.4 per cent for the year 1932.

⁸⁰Another factor contributing to the falling exports was the gradual falling of export prices. These had lagged behind import prices in 1930-1931.

⁸¹*Wirtschaftsdienst*, XVII, September 9, 1932, p. 1227.

⁸²Schwartz, B. *Weg der Stillhaltung*; also *Wirtschaftsdienst*, XVIII, April 21, 1933, p. 511; Dr. Herbert Gross, *Einfürstärkung und Devisenknappheit*; *ibid.*, December 9, 1932, p. 1634.

⁸³For detailed explanation of "additional exports" see Chapter VI.

⁸⁴For text of the agreement see *London Economist*, February 25, 1933, p. 397.

⁸⁵*Ibid.*, p. 397.

⁸⁶No mention was made of their being applicable for "additional exports," and it seemed that the right was left to the Reichsbank to release them for such a purpose if it so desired.

- b. tourist and travel expenditures; and
- c. investment in loans of the German Reich, denominated in foreign currencies.

4. The registered marks mechanism was placed in the hands of the Reichsbank which was to establish a trustee for its administration. All registered marks were to be completely freed from control within five years.

5. There was some reduction in interest rates to compensate for the 5 per cent reduction in credit lines to which Germans objected.⁸⁷

6. If fresh credits were granted to German firms for a minimum of one year, 20 per cent of the availment of the new credit might be released out of the creditor's registered marks.⁸⁸

Clause 10 of the Agreement of 1932, providing for the repayment of credits and their payment into blocked accounts or investment in securities was designated as the "Swiss Clause." It is obvious from the above that the Swiss Clause was given still greater possibilities in the Agreement of 1933, and it was hoped that a number of advantages might be derived from its use, for it was a means of:

- 1. Permitting an exchange of credits between unwilling creditors ready to take a loss, and new creditors.
- 2. Stimulating tourist traffic and the export trade.
- 3. Furthering fresh investments in Germany through the purchase of marks at a discount.
- 4. Improving the domestic credit position and forcing accommodations with unsound debtors.⁸⁹

In addition to the general creditors' agreement, negotiations for the prolongation of the Municipal Standstill Agreement were completed on March 2, 1933, total credits under consideration amounting to some 200 million Rm.⁹⁰ Demands of foreign creditors seemed excessive, but agreement was finally made to further repayment of 5 per cent of the total debt, half to be paid in March, the other half in October, 1933. Interest charges were reduced from 6 per cent to 5 per cent.

Since the beginning of restrictions, interest and amortization on long-term debts had been faithfully⁹¹ met in foreign currencies if the terms of

⁸⁷According to the *London Economist*, March 11, 1933, p. 527, "the American crisis had an unfavorable effect on the German balance of payments, as the rise in the New York discount rate increased the rate of interest on the Standstill credits granted by the American banks." Thus this gain through a reduction of rates under the credit agreement which would have resulted in an annual saving of some 20 million Rm was almost completely lost.

⁸⁸This was a form of bonus for the granting of new credits. The Germans, anticipating a future revival in industry, wanted to keep on hand the unused credit lines and did not want to grant the 5 per cent reduction.

⁸⁹The earlier agreements had furnished too much security to the unsound debtor in that the credits which had been extended to him could not be called. Now the payment in marks could be demanded.

⁹⁰About 47 million Rm had been paid back in foreign currencies or into blocked accounts since March 15, 1932.

⁹¹*Wirtschaftsdienst*, XVIII, February 24, 1933, p. 252. During this period, in carrying out all of her agreements Germany was punctual and exacting. In retrospect, one must say that the treatment of the creditors was fair, perhaps overly fair, for in many cases further guarantees were given to creditors on debts into which they had entered of their own free will.

the debt so required. However, during the early part of 1933, rising domestic prices, increased demands for foreign raw materials, the fall of the dollar,⁹² and then the anti-German boycott all made the outlook for a continued active trade balance dark.

It had been rumored in 1932, that unless the trade balance improved, it might be necessary to declare a moratorium on the interest and amortization on the long-term debt. The gold reserve of the Reichsbank continued to decline, but to the amazement of all concerned, the Reichsbank, under the supervision of Schacht,⁹³ announced and fulfilled its intention to repay the 100 million dollar rediscount credit which had been extended to Germany in June, 1931. It seemed a deliberate attempt to make the financial situation appear worse than it really was, although Schacht disclaimed any such intentions.⁹⁴

Between June, 1932, and June, 1933, the *devisen* laws were amplified and changed so that their severity and effectiveness became greater. However, the declining volume of foreign trade and the diminution of gold and *devisen* holdings seemed to furnish some justification for a further limitation of repayments of foreign debts. The form which this limitation took is a matter for discussion in the following chapter.

⁹²*Wirtschaftsdienst*, April 28, 1933, p. 547, Dr. L. Oberascher, "Dollar und Reichsmark." *London Economist*, June 3, 1932, p. 1189. Dollar devaluation was some gain to industry, but little to the banks who had bank deposits in dollars in the United States. Hence their loss offset their gain.

⁹³It was anticipated that with the return of Schacht the Reichsbank on March 16, 1933, would adopt a more vigorous policy than under leadership of Dr. Luther. According to *Wirtschaftsdienst*, March 24, 1933, p. 384, Schacht's plans would be facilitated through a government (NSDAP) with a long-term program. Schacht's plans included, of course, the increasing of the reserves of the Reichsbank, and the financing of a domestic recovery program.

⁹⁴*London Economist*, April 15, 1933, p. 809. Schacht explained the repayment with reference to the obligations which the Reichsbank had to assume in respect of the employment of this credit. These obligations were of such a nature that the credit could only have been employed to improve the position of the Reichsbank. For that purpose the interest charge concerned represented too great a sacrifice.

CHAPTER IV

MORATORIUM, STANDSTILL, AND DEISEN CONTROL, 1933-1940

A DEFICIT in international capital payments of about 1 billion Rm was anticipated for 1933.¹ Since the export surplus in 1932 was slightly over 1 billion Rm, it seemed unlikely that a smaller surplus in 1933 would balance international payments. Reichsbank reserves did not warrant further disposition of deisen or gold. No foreign credits were obtainable. Accordingly, two courses remained: first, to let the mark depreciate; second, to declare a moratorium, or arrange for lower interest rates on foreign debts. Stock exchanges registered anticipation of lower interest rates and a moratorium. Though at first the market fell it reacted favorably to an interpretation that a moratorium would leave untransferred sums in Germany for investment.

TRANSFER MORATORIUM

To reach an understanding with foreign creditors, Schacht summoned their representatives to a conference in Berlin on May 26, 1933.² Schacht's independent action may have been intended to bring the problems of Germany to the foreground at the pending World Economic Conference. June 8, 1933, a transfer moratorium on medium- and long-term debts effective July 1, 1933, was announced. June 9 the *Gesetz über Zahlungsverbindlichkeiten gegenüber dem Ausland*³ provided for the following:

1. German debtors could pay regular interest, dividends, amortizations and rents on foreign debts contracted before July 15, 1931, into a *Konversionskasse für Auslandsschulden* (Conversion Office for Foreign Debts).

2. The *Konversionskasse* was to be a legal entity, with its supervision in the Reichsbank Board of Directors.

3. The Reichsbank could set the time at which payments might be made out of the *Konversionskasse* to foreigners.

4. Obligations of the Reichsbank, and Deutsche Golddiskontbank in connection with Standstill Agreements were unaffected.

5. The Minister of Economics, with the consent of the Board of Directors of the Reichsbank could make certain exceptions.

In the Berlin negotiations in May, 1933, it had been implied that

¹*Wirtschaftsdienst*, April 21, 1933, p. 511.

²*London Economist*, June 3, 1933, p. 1188. Schacht was anxious to secure the consent of the foreign representatives with respect to a moratorium, but at the same time, he warned them that even if no consent were given, he would proceed with his policy.

³*RGBl.* I, 1933, June 10, p. 349.

Standstill creditors would receive preferential treatment.⁴ Therefore, these new regulations were not to affect Standstill credits. However, since transfer depended on the position of the Reichsbank,⁵ short-term creditors agreed, on June 16, to forego repayment on capital account, including the Golddiskontbank installments, in foreign exchange or currencies.

SPECIAL MORATORIUM ARRANGEMENTS

At a meeting in London July 1, 1933, certain creditors were able to exact transfer concessions on medium- and short-term loans from July 1, to December 1, 1933. Provision was made for another meeting of the German government and foreign creditors' representatives, should transfer prove impossible. The agreement provided that:

1. Interest and amortization on the Dawes Loan were to be met in full.

2. Interest, but no amortization, was to be paid on the Young Loan.

3. Half (up to 4 per cent annually) of all interest and shares of participation falling due should be transferred.⁶

4. For the untransferred portion of coupon and other revenue payments creditors were to be given certificates of the *Konversionskasse*, known as "scrips," which could be transferred into foreign currencies at a discount of 50 per cent.⁷

5. Mark payments for amortization were to be booked to the credit of the payee at the *Konversionskasse*. These marks were to be "blocked" and were investable, at the choice of the creditor, in an analogous way to the reichsmark payments made in respect of cash balances under the Standstill Agreements, although they could not be sold for paying traveling expenses.⁸

Switzerland and Holland insisted upon further advantages and received, in return for trade concessions, such further payments in foreign

⁴Preferential treatment was afforded because these creditors (in contrast to the bondholders) had sacrificed interest in the previous year, and because the transferring of interest payments on acceptance credits seemed necessary for the frictionless development of Germany's foreign trade. See *London Economist*, June 10, 1933, p. 1244.

⁵See provision of the Creditors' Agreement of 1933, page 50. The 25 years' Sinking Fund Gold Loan of the Potash Syndicate was also excluded from the moratorium. The foreign exchange for the service on this was collected at the source by the paying-agents in virtue of a special provision in the loan contract.

⁶If the annual interest were 6 per cent, then 3 per cent could be transferred; if 10 per cent, then but 4 per cent could be transferred, and the remaining 6 per cent had to be paid into the *Konversionskasse*. A problem arose, in this connection, with respect to the discount on registered marks which at the time amounted to something like 22 per cent. However, it was assumed that an adjustment could be made in that a smaller amount of scrip might be used for exports, thus effecting a balance between the two.

⁷The Golddiskontbank undertook to purchase them to the extent that it had foreign exchange available. Thus by accepting half of the regular amount of interest and arranging for a transfer of the scrip into foreign currencies, the security holder could, in effect, enjoy the receipt of 75 per cent of the interest due him. Arrangements were later made for their regular utilization to facilitate additional exports. See page 104.

⁸For a complete discussion of the agreement reached in London see Brech, J., "Vorläufige Transferregelung," *Wirtschaftsdienst*, July 7, 1933, p. 913. Also *London Economist*, July 8, 1933, p. 73; and Harris, *op. cit.*, 52 ff.

exchange as additional German exports to them might render available. Arrangements were executed by special clearing houses.⁹

According to Harris,¹⁰ the net result of the matter which Schacht had started was the fact that he succeeded in:

1. Obtaining recognition of the transfer problem by insisting on payments being made by debtors in reichsmarks instead of in foreign currencies.

2. Driving a wedge between the Dawes and the Young Loan in the matter of sacrosanctity.

3. Staking out claims for the reduction of interest rates to a maximum of 8 per cent.¹¹

4. Reducing the burden of interest on long- and medium-term credits other than the Reich loans by some 25 per cent, since the creditor received half the payments due to him in cash and the other half in scrips discountable at 50 per cent.¹²

Between July, 1933, and December, 1933, the Reichsbank reserves increased from 377 million Rm to 473 million Rm. No small part of this increase was due to a special decree of June 12, 1933, providing for declaration to the Reichsbank of devisen and foreign properties, mortgages and other rights, participations in companies, securities, life insurance claims, patents and similar claims, and precious stones, metals, and art collections owned abroad.¹³

The use of scrips in stimulating exports is discussed in Chapter VI. Later, registered marks and spermarks could not be used to pay for German exports, although in some cases they could be transferred to the *Konversionskasse* and used along with scrips.¹⁴

FURTHER MORATORIUM DISCUSSION

At the summons of the Reichsbank, representatives of British creditors met in Berlin, December 5, 1933, for a fresh discussion of the moratorium. The first ten months of 1933 revealed an export surplus of 575 million Rm as compared with 930 million Rm in the same period in 1932.

⁹The agreement was in reality forced upon Germany. Schacht stated that the Reichsbank "fully understands and keenly sympathized with the point of view expressed so emphatically by the gold standard countries like Switzerland and Holland, that buy enormous quantities of goods from Germany, and thereby provide Germany with more than enough foreign currency to keep up the debt services of those countries." *London Economist*, July 8, 1933, p. 67.

¹⁰Harris, *op. cit.*, p. 52.

¹¹In view of the fact that half of the interest (providing it did not exceed 4 per cent annually) might be transferred.

¹²German debtors continued to pay their full obligations in reichsmarks, however.

¹³*RGBl. I*, 1933, June 13, p. 360: "Gesetz gegen Verrat der d. Volkswirtschaft." The provisions of this law were somewhat similar to those of the decree of July 18, 1931 (*RGBl. I*, 1931, p. 373), but the provisions were more severe, and a patriotic impulse was given to the surrender of the foreign claims in that failure to do so was regarded as a "betrayal of the German Economy."

¹⁴For regulations concerning these see *Wirtschaftsdienst*, October 6, 1933, p. 1364, Franz Bargon, "Die Neuordnung des Zusatzausfuhrverfahrens."

Only part of this surplus rendered devisen, for some of the exports merely represented transfer of goods to fulfill other claims on the German economy.¹⁵ Since the increase in the reserve of the Reichsbank¹⁶ could be explained by the compulsory declaration of assets, Schacht had some basis for stating that in 1934 Germany could not continue to transfer 50 per cent of the interest on the medium- and long-term debt.¹⁷

After the Berlin Conference, disgruntled British creditors issued a public statement protesting the moratorium, discriminations introduced with respect to repayments to certain creditors, and the uncompromising attitude of the German officials. However, the Central Committee of the Reichsbank decided on December 18, 1933, to alter the percentages for repayment under the moratorium agreement, protests of the creditors notwithstanding.¹⁸ Cash transfers were to be reduced from 50 per cent to 30 per cent. Thus 70 per cent was to be paid in scrips.¹⁹ Interest and amortization for the Dawes Loan and interest on the Young Loan were still to be transferred in full.

Both the British and the American Ambassadors protested the peremptory treatment of British creditors' representatives and the discrimination shown the Dutch and Swiss, for the latter two countries still enjoyed transfer under their previous arrangements.²⁰ The American Ambassador in Berlin was instructed by the United States State Department to ask for details concerning funds made available to German nationals during the previous two years for repurchase of German securities in the United States rather than for normal transfers to creditor countries.²¹ This challenge provoked a statement from the German Ministry of Economics that "between November 1931, when foreign bonds were subjected to exchange regulations, and November 1933, bonds of nominal value at par of exchange of 781 million Rm returned to Germany. *After 1933, no exchange out of the reserves was given for repurchases.* Of the 781 million Rm repurchased, 549 million Rm came through the additional export process, a further 121 million through exchange for foreign securities, and the balance through various other processes."²²

¹⁵For example, the "Emigrantenexports" were exports which permitted emigrants who still had claims in Germany to withdraw them in the form of goods. Then, too, part of the exports were fostered by the sale of blocked accounts and scrip.

¹⁶Ratio of reserve to note issue was 11.6 per cent, as compared with 8.0 per cent in May, 1933.

¹⁷*Wirtschaftsdienst*, January 5, 1934, p. 15. It was estimated that about 74 million Rm monthly would be needed to meet foreign obligations in the year 1934. From the experience of the year 1933 but 25 million Rm monthly might be expected from exports. Actually this much was not realized in 1934.

¹⁸*Wirtschaftsdienst*, December 22, 1933, p. 1751.

¹⁹Since the scrip would have been rediscountable at 50 per cent, the creditors would have received 65 per cent in foreign currencies, as against 75 per cent under the former arrangement.

²⁰*London Economist*, January 6, 1934, p. 10.

²¹Since the bonds were quoted on the foreign markets at a low price, they might be bought up with available foreign exchange, brought back to Germany, and sold at a higher price, for in Germany, the bonds could be retired in full in reichsmarks.

²²*London Economist*, February 17, 1934, p. 348. (Italics mine).

Excessive repayment would have further depleted currency reserves, but, so far as the internal and external stability of the currency was concerned, that would have made little difference, for the Reichsbank and the government agencies exercised complete control over all forces of demand affecting the exchanges, and over all internal financial matters. Schacht's main purpose in defending the reserve was to retain control over importation of raw materials and foodstuff vitally necessary to the domestic re-employment and rearmament programs.²³

Certain countries with whom Germany had an active balance of trade threatened reprisals to the arbitrary debt provisions. Schacht was forced to make further concessions. Between January-June, 1934, foreign creditors, save the Swiss and Dutch, were to receive 30 per cent cash transfers on interest payments, and scrips for the remainder which could be discounted with the Golddiskontbank, when foreign currencies were available, at a guaranteed price of 67 per cent. Thus creditors were able to get 76.9 per cent of their interest as compared with 75 per cent received between July 1, 1933, and December 31, 1933.²⁴ It was further agreed that discriminatory arrangements with Switzerland and Holland were not to be continued after June 30, 1934.²⁵ The January agreement was provisional. Arrangements were made for another conference to be held in April, 1934.²⁶

CHANGES IN DEISEN CONTROL ORGANIZATION

In the meantime changes had taken place in deisein control. Privileges enjoyed by the Minister of Economics under the Deisein Laws of May 23, 1932,²⁷ and June 9, 1933²⁸ were to be transferred to a new organization, the *Reichsstelle für Deiseinbewirtschaftung*²⁹ which was to begin operations January 1, 1934. The Minister of Economics was still empowered to regulate legal relations of the Government Office for Deisein Control and to name the executives. All instructions concerning deisein

²³This matter receives thorough discussion in an article by Dr. L. Oberascher, "Braucht Deutschland eine Währungsreserve?" in *Wirtschaftsdienst*, March 16, 1934, p. 352. According to Oberascher: "Die Autonomie eines Landes im Einkauf ausländischer Ware ist um so geringer, je kleiner der Goldvorrat eines Landes ist; bei kleinstem Goldbestand muss die Einfuhr dem Export am engsten angepasst werden, über die Höhe des Exportes entscheidet aber in erster Linie der ausländische Abnehmer. . . . Je grösser die Rohstoffabhängigkeit eines Landes, desto grösser ist aber der Bedarf an Währungsreserven. Insbesondere die rohstoffarmen Industrieländer, die in hohem Masse vom Export ihres Landes leben, benötigen daher grosse Goldreserven."

²⁴Under the arrangement of December 18, 1933, the creditors would have received a maximum of 67 per cent of their interest due.

²⁵*London Economist*, February 3, 1934, p. 232. This concession to the creditors opened Germany to retaliatory measures on the part of the Swiss and Dutch again.

²⁶It is interesting to note what effect the apparent understanding had on the bourses. In London bond prices rose. In Germany industrial stocks rose sharply, in that the assumed abandonment of creditors' threats to impose clearing arrangements and the prospects of a reduction in bond interest rates were encouraging to business prospects. See *London Economist*, February 10, 1934, p. 296.

²⁷RGBl. I, 1932, May 23, p. 238.

²⁸*Ibid.*, 1933, June 9, p. 349. See page 42. Thus all matters connected with the *Konversionskasse* fell under this *Reichsstelle für Deiseinbewirtschaftung*.

²⁹*Ibid.*, December 18, p. 1079; December 19, p. 1088. "Gesetz ueber die Schaffung einer Reichsstelle für Deiseinbewirtschaftung," and the "Verordnung" thereunto.

controls were to be carried out by this office. Arrangements were made for a recodification of devisa laws and instructions³⁰ that had been issued in connection with them. On April 17, 1934, the *Freigrenze* (free-limit) within which marks might be taken over the border was reduced from 200 Rm to 50 Rm.³¹ Progressively smaller amounts of devisa were made available to importers during the first half of 1934, and the utilization of acceptance credits under the Standstill Agreement was cut.³²

STANDSTILL IN 1934

The Creditors' Agreement of 1933 was again renewed in February, 1934, without fundamental alterations.³³ Registered marks had proven a means of cutting commitments to doubtful debtors, and interest rates on the short-term credits had, as a whole, fallen.³⁴ It was not absolutely necessary to liquidate all Standstill credits, for some of them, the genuine acceptance credits, represented a normal and integral part of the machinery of international trade and finance.³⁵ However, some of the credits were still really finance credits, and could not be easily mobilized. According to *Wirtschaftsdienst*,³⁶ the substitution of the genuine acceptance credits for pure finance credits, or the consolidation of the latter, would be a preliminary to lifting Standstill arrangements. Under the 1934 agreement no initial repayment was made, though some 290 million Rm of the credit lines were unavailed. These were held available for financing any increased volume of international trade. Further suspension of foreign exchange payment to which the Golddiskontbank had agreed, in June 1933, was also continued. In March, 1934, the Municipal Standstill Agreement was renewed for twelve months, with no substantial changes.³⁷

³⁰*RGBl.* I, 1934, February 19, p. 92, Article II. Article II empowered the Minister of Economics to bring together all of the laws and regulations and change them for reissue, content to remain the same. This was not accomplished until February, 1935.

³¹*Ibid.*, April 20, p. 313: "VO zur Durchf. der VO ueber die Devisenbewirtschaftung."

³²For full discussion of the cuts in devisa quotas see page 82. According to the *London Economist*, March 31, 1934, p. 697, Standstill credits could only be used up to 70 per cent under classification of acceptance credits. Devisa available for imports were cut from 50 per cent to 5 per cent within six months.

³³According to the *London Economist*, February 24, 1934, p. 406, it was probable that the creditors did not want to do anything in the negotiations over the Standstill credits that would prejudice the position of the long- and medium-term debts in the negotiations to take place in April.

³⁴Harris, *op. cit.*, p. 55. The total Standstill indebtedness was 3.85 million Rm at the end of February, 1933, and at the same time in 1934 amounted to 2.6 billion Rm. Between February and December, 1933, 406 million Rm were converted into registered accounts, of which 102 million were invested in Germany and 304 million sold at a discount. By 1934, the average rate for London acceptance credits, including commissions, had been brought down to nearly 3 per cent. Interest on cash advances was somewhat higher, but had fallen from an average of 5 per cent to a little over 4 per cent.

³⁵*London Economist*, February 24, 1934, p. 406. Before the World War, German acceptance credits in London had amounted to about 70 million Rm. At the beginning of 1934 there were but 32 million, with about 12 million of bank overdrafts.

³⁶*Wirtschaftsdienst*, February 23, 1934, p. 252.

³⁷Harris, *op. cit.*, p. 56. "During 1933 a plan had been formulated for a consolidation of internal, short-term municipal debts into a twenty-year plan, and foreign creditors now obtained the option to convert the whole of their credits into 4 per cent twenty-year reichsmark bonds which might be sold in exchange for registered marks. The Municipal Standstill Credits also showed a big reduction, having fallen from 247 million Rm in the summer of 1931 to 148 million Rm at the end of February, 1934."

The total foreign indebtedness fell, but the active trade balance, by which alone Germany could maintain debt repayments, fell likewise.³⁸ Even the sums agreed to in January, 1934, could not long be transferred. A complete moratorium seemed inevitable.

CREDITORS' VIEWS

Creditors appeared unwilling to believe that the German situation necessitated a moratorium, or, believing, they insisted that the Dawes and Young Loans were sacrosanct. Some granted that world commercial conditions were poor, but that Germany had worsened her own predicament by her political, economic, and commercial policies.³⁹ Without doubt certain policies did alienate trade, but little could be done to change these policies. To depart suddenly from a policy of agricultural protectionism, begun long before Hitler's Chancellorship, might have opened markets for German manufacturers, but it would have resulted in a complete collapse of German agriculture, and, perhaps, a simultaneous industrial collapse which would have shattered the re-employment program. For another thing, it would have foiled the National Socialist attempts to build up the *Bauerntum* which the Nazis considered the focal group of a stable economy.⁴⁰ Needless to say, it would have marked the end of rearmament, for a rearmed Germany had to be self-sufficient.⁴¹

Foreign creditors doubted intentions of the German government to repay foreign debts, or to permit German nationals to meet their obligations.⁴² A cut in domestic expenditures, a conciliatory commercial policy, and mark devaluation might have been accepted by certain creditors as evidence of Germany's good intention. Devaluation, however, was the last thing Schacht had in mind, and a cut in public expenditures would have defeated Hitler's re-employment program. There is reason to believe that Schacht desired to reduce the foreign debt to as low a figure as might be consistent with prevailing standards of international financial ethics.⁴³ He frequently attempted to associate commercial indebtedness with hated reparations by showing that commercial borrowings had made repara-

³⁸In certain of the export circles it was held that an active trade balance could not be maintained without devaluation. Schacht declared that subsidization of exports through supplementary exports and blocked marks was adequate, and that he would not consider devaluation. *London Economist*, March 3, 1934, p. 456.

³⁹The *London Economist*, March 24, 1924, p. 624, claimed that the history of German commercial relations with the Scandinavian countries and Russia in all respects, and with Holland, Czechoslovakia, and Austria in certain respects, recorded a deterioration of which nine-tenths was due to stupidity, calculated offensiveness, and so-called nationalism, or Autarkie on the part of Germany. Anti-Semitism was another factor influencing trade.

⁴⁰For information regarding the "Reichserbhofgesetz" and the "Reichsnährstandgesetz" see Chapter V. Both were the means of developing and protecting the agricultural populace.

⁴¹That is to say, if armaments were to be effective. Germany had learned the importance of supplies of foodstuff, raw materials, etc., during the World War. The lesson was driven home during the blockade after the war.

⁴²Germany's public obligations were the Dawes and Young Loans, and other minor issues.

⁴³For a particularly sharp criticism of the German moratorium arrangements and matters therewith connected one may consult Paul Einzig's *Germany's Default, the Economics of Hitlerism*, London, 1934.

tions payments possible.⁴⁴ The sale of blocked marks at a discount meant a loss to creditors, as did the sale of German "dollar bonds" in foreign markets to German nationals. Creditors often failed to see that had they been permitted to attempt to liquidate total claims at any time on short notice, they, as well as the German economy, would have suffered severe losses.

FURTHER MORATORIUM DEVELOPMENTS

On April 27, 1934, the conference of foreign creditors' representatives and the German government set up two committees, one to study Germany's *devisen* supply,⁴⁵ the other certain technical questions and Reichsbank statistics.⁴⁶ The British and American Ambassadors had informed the German government that their governments would take a grave view of a rumored proposal to subject the services of the Dawes and Young Loan to the transfer moratorium. However, the United States, to whom Germany owed the most, exported consistently more to Germany than it imported from Germany and could not threaten forced clearing as could England, France, Holland, and Switzerland, with whom Germany had an active trade balance.

The Dawes, Young, and Kreuger Loans were not affected. With respect to other long-term debts, Germany proposed:⁴⁷

1. Suspension of transfer of interest payments and provision of opportunity for creditors to receive funding bonds of the "Konversionskasse" against the surrender of coupons.⁴⁸
2. An opportunity for creditors preferring cash to funding bonds to sell coupons to the Reichsbank at a 60 per cent discount.⁴⁹
3. An opportunity for creditors who did not desire to avail themselves of either of these alternatives to keep their coupons and retain all their coupon rights.⁵⁰

⁴⁴It was a current German argument that commercial obligations were merely postponed versions of reparations annuities. True, foreign borrowings had facilitated reparations transfer, but that did not make the commercial obligations any less valid. Nor did the fact that foreign lenders had been overly willing to advance funds render the foreign obligations void.

⁴⁵This committee was to investigate the system of foreign exchange control and the uses to which the various categories of blocked marks were put.

⁴⁶*Wirtschaftsdienst*, May 11, 1934, p. 640, carries an article entitled "Ungläubige Gläubiger" which is a thrust at those creditors who refused to be convinced of the actual state of the German reserves.

⁴⁷Harris, *op. cit.*, p. 58. For further discussion see also *London Economist*, June 2, 1934, p. 1186.

⁴⁸These funding bonds were to be in the same principal amount as the nominal amount of the coupon and in the currency of the coupon, were to bear interest at 3 per cent, and mature on January 1, 1945, accrued interest to be paid semi-annually. They were to be redeemed by a sinking fund equivalent to 3 per cent of the outstanding amount per annum, payment of principal, interest, and sinking fund, to be guaranteed by the German government, and not subject to transfer restrictions.

⁴⁹Bondholders could receive payment of the purchase price at any date commencing six months after the coming into force of the agreement. These payments were not subject to transfer restrictions, but the Reichsbank reserved the right to withdraw the offer, if it was unable to find the necessary foreign exchange, at thirty days' notice. It undertook to try to make these cash payments and increase them when possible. This offer was withdrawn the beginning of November, 1934.

⁵⁰These offers, and the last-named stipulations, were to apply also to all interest, dividend, and other regularly recurring payments of a similar nature not represented by coupons.

British, French, and Swedish creditors accepted conditionally, but American, Dutch, and Swiss creditors did not concur. After March the trade balance was passive. By June Reichsbank reserves had fallen from 465 million Rm in January, 1934, to 151 million Rm. Quotas of deisen for importers were cut to 5 per cent of the basic figure.⁵¹ June 14, 1934, announcement was made of a complete moratorium on all debt payments, effective July 1, 1934.⁵²

FORCED CLEARING THREATS

A British note, June 20, 1934, drew attention to the sanctity of the Dawes and Young Loans, claimed that invisible exports would furnish sufficient deisen to meet their charges, and challenged the German estimate of deisen made available for repurchase of bonds in foreign markets. The note implied Germany had made currency reserves appear less favorable than they were, and referred to the favorable trade balance Germany enjoyed with England. This reference was preliminary to hasty passage of a Debts Clearing-Office and Import Restrictions Bill through Parliament. Under this bill there were two main provisions:⁵³

1. A clearing-office was to be set up if the treasury found payments due British residents or persons carrying on business in the United Kingdom were subjected to restrictions, prevented, or discontinued. This clearing-office was to collect payments on goods coming into England from the country in question and use a part of these payments to meet debt charges to English nationals.⁵⁴

2. The Board of Trade could prohibit or restrict importation from any countries imposing quantitative restrictions against British trade which, in the opinion of the Board, were discriminatory or detrimental.

Effective clearing might eventually have involved diminution of German raw material imports from the British Dominions. However, the

⁵¹These percentages were based on the quantities of deisen available in a given base period. Furthermore, foreign acceptance credits could be used in June only up to 20 per cent. The creditors claimed that these cuts were merely an attempt to "rig" the situation to make it appear worse than it really was and justified their views on the grounds that the German government had taken no steps to lessen exchange going out for luxuries. *London Economist*, June 2, 1934, p. 1191. Germany maintained a policy of non-discrimination among imports.

⁵²Short-term liabilities were unaffected by this declaration, and it was understood that interest due on Standstill bills would continue to be paid in order to ensure the maintenance of Germany's external trade. According to the *London Economist*, June 16, 1934, p. 1317: "The truth is that the liabilities embraced in the Standstill Agreement are not so much bills of exchange, but the acceptance credits opened in favor of German houses, against which the bills themselves are drawn. Old bills are continually reaching maturity and are being replaced by new bills, and the new bills are drawn against fresh shipments of commodities. Acceptance credits are definitely the medium of finance for a great part of Germany's external trade. Were the moratorium to be extended to the interest and commission payable on acceptance credits, subject to Standstill Agreements, the immediate result would be the withdrawal of all credits and the intensification of the paralysis of Germany's external trade. This would render still harder the collection of any interest from Germany, and would go definitely against the interests of Germany's long- and medium-term creditors."

⁵³*London Economist*, June 23, 1934, p. 1366. The bill was designed to take care of clearing and any discriminatory action which Germany might take against English trade. Germany had scorned earlier threats of forced clearing arrangement and had declared that she would set up retaliatory restrictions against restrictions on the part of Great Britain.

⁵⁴It was proposed to collect but 20 per cent of the sums to be paid for imports, for 20 per cent would cover charges on the Reich Loans.

German and English governments were not anxious to provoke a trade-restrictions war,⁵⁵ and a German delegation, hurriedly dispatched to London, affected an agreement July 1, 1934, whereby;⁵⁶

1. The German government undertook to provide sterling funds for Dawes and Young Loan coupons, maturing between July 1-December 31, 1934, held by British subjects.

2. The original offer of May 29, 1934, was to apply for the other medium- and long-term loans in possession of British nationals on June 15, 1934.

In return for benefits received in this Anglo-German Transfer Agreement, England did not attempt to use the Debts Clearing-Office Act. This Payments Agreement was modified in June, 1938, in connection with the establishment of a Transfer Agreement regarding the Austrian Foreign Debt. (See p. 110.)

Toward the end of June, announcement was made that *devisen* would be divided and distributed only when available and that the Reichsbank was to supervise all foreign payments.⁵⁷ Cuts in the *devisen* quotas made it impossible for German importers to pay for goods already ordered, for payments often followed the receipt of the goods by three months, and the quota available would have been reduced within that period. No alternative remained but to make payment in reichsmarks into special accounts at German banks. Countries with whom Germany had an active trade balance could collect these trade debts through forced clearing. Some clearing arrangements comprehended trade debts and service charges on loans. Clearing arrangements, including the Payments Agreements, are discussed in detail in Chapter VI.

Deviating from established procedure, the German government paid customs duties and other revenues, collected for the Dawes Loan, into a special account at the Reichsbank, despite formal protests of Trustees of the Dawes Loan.⁵⁸ Though the Dawes and Young Loans were principal items in Clearing and Payments Agreements, it became increasingly evident that the Dawes Loan was losing its seniority.

THE NEW PLAN AND CLEARING

Under the "New Plan" initiated by Schacht on September 24, 1934, *devisen* might be procured for imports only with permission from proper

⁵⁵*London Economist*, June 23, 1934, p. 1378: "It would be deplorable if the establishment of satisfactory economic and financial relations with Germany should be unnecessarily postponed in order that we may first have a trial of strength carried out with the weapons of exchange clearing, retaliation, and war." The loss at stake with respect to the Dawes and Young Loan so far as England was concerned was but 1.25 million pounds, a small sum in comparison with the British and Empire trade with Germany.

⁵⁶For full text see *London Economist*, July 7, 1934, p. 8.

⁵⁷*Wirtschaftsdienst*, 26, June 29, 1934, p. 891.

⁵⁸Filing protest was a mere formality, for it was realized that the violation of the Trust Deed of the Dawes Loan could not be remedied. Judging from guarantees of the National Socialist government, the ten-year funding bonds of the *Konversionskasse* really were prior to the Dawes bonds. For further information see *London Economist*, August 4, 1934, p. 221.

authorities.⁵⁹ This plan had been started in March, 1934, on a smaller scale with the "Law Governing Trade in Industrial Raw Materials and Semi-Manufactured Goods."⁶⁰ Under this earlier law Control Offices were set up to regulate imports of particular raw materials, but under the law of September 4, 1934,⁶¹ the Minister of Economics was empowered to set up 25 Control Offices (including the four which had been set up under the previous law) to supervise traffic in goods. Responsibility for distribution of deisen was entrusted to the *Ueberwachungsstellen*. The "New Plan" receives detailed consideration in Chapter V.

A special *Verrechnungskasse*⁶² (Clearing-Office) was established to carry out details of various treaties with other governments, central banks, or official clearing agencies. This Clearing-Office was organized as a public corporation and fell under the supervision of the Ministry of Economics. All accounts carried with the Reichsbank or other agencies were transferred to the Clearing-Office. The German government guaranteed obligations of the *Verrechnungskasse*.

At the end of summer, 1934, the Golddiskontbank ceased purchasing outstanding bond scrips at 67 per cent of the nominal prices. It reserved the right to buy if, and when, the foreign exchange situation made transfer possible. In certain cases, use of scrips in trade with countries with whom clearing agreements had been set up was forbidden, though other concessions were made to the foreign importers. These are noted in Chapter VI.

October 13, 1934, the German government denounced its commercial treaty with the United States, effective October 14, 1935, and announced that only 50 per cent of payments due October 15 to American holders of the Dawes Bonds would be paid in cash.⁶³ The balance was to be paid in reichsmarks usable in Germany at the current rate of discount. Thus American holders were to receive about 75 per cent of their claims so long as the German government consented to buy scrips and blocked marks, a policy which they had temporarily stopped. The United States, as a heavy exporter to Germany, was unable to protest these discriminations effectively. In the spring of 1935, announcement was made that holders of the Dawes Loan in "non-clearing" countries would receive

⁵⁹Under the original plan, if no deisen were available, the foreign exporter could only export to a German if he were willing to extend credit. However, German trade debts increased, and state control over all imports was introduced in late July, 1935. *London Economist*, August 3, 1935, p. 230.

⁶⁰RGBl. I, 1934, March 24, p. 213: "Gesetz ueber den Verkehr mit industriellen Rohstoffen und Halbfabrikaten."

⁶¹*Ibid.*, September 7, p. 817: "VO ueber den Warenverkehr." The right to pass this law had been conferred by an earlier law of July 3, 1934, giving the Minister of Economics power to take measures he felt necessary, to further the goal of the German economy and to prevent crises. RGBl. I, 1934, July 4, p. 565: "Gesetz ueber Wirtschaftliche Massnahmen."

⁶²*Ibid.*, October 16, p. 997: "Gesetz ueber die Errichtung einer deutschen Verrechnungskasse."

⁶³*London Economist*, October 20, 1934, p. 723. The German government had made arrangements through the clearing transactions to honor in full the payments on the Reich loans to other governments. In an *aide-memoire* on October 10, 1934, the American government had voiced the expectation that no discrimination would be practiced against holders of bonds.

payment due April 15 only in registered marks. The Trustees of the Dawes Loan protested in vain.

On June 24, 1935, the moratorium was extended to June 30, 1936. Conditions agreed under various clearing arrangements were to remain in effect. Holders of bonds in "non-clearing" countries were still at the mercy of the German government. The funding bond system was retained, but the conditional offer of the Golddiskontbank to redeem at 40 per cent in cash, withdrawn in the previous year, did not reappear. On the ground that no improvement had taken place in the foreign exchange situation, the qualified moratorium on long- and medium-term debts of June 2, 1935, was extended to the end of the year, but various agreements with individual debtor countries regarding transfer were unaffected.⁶⁴ December, 1936, this moratorium was extended until the end of June, 1937. It was renewed at regular intervals thereafter.

GERMAN EXPANSION AND THE AUSTRIAN DEBT

German annexations in the period 1935-1940 necessitated an extension of control measures. Indeed, the military occupation of such territories as Poland, Denmark, Norway, Holland, Belgium, Luxembourg, and France, after the outbreak of war, also involved adjustments between the German reichsmark and the currencies of occupied countries and special regulations regarding *devisen* matters.

The assimilation of Austria resulted in the absorption by the Reichsbank of the Austrian National Bank with all its assets, the gradual elimination of regulations governing Austro-German trade and finance, and the inclusion of Austrian external political and economic relations under the sovereignty of the Reich. German foreign trade restrictions were applied to Austrian foreign trade, which was later included within the figures for Germany proper. A Foreign Exchange Board was created in Vienna, Austrian National Clearing Accounts were taken over by the *Deutsche Verrechnungskasse*, and an ordinance of April 30, 1938, extended the moratorium laws of June 9, 1933, and subsequent laws thereunto appertaining, to Austrian foreign obligations. Austrian foreign debt charges were to be paid into the Conversion Fund (*Konversionskasse*) whereupon the debt was considered discharged.

Under empowering clauses, and usually after negotiations with foreign creditors, special exceptions had been made for the Dawes,

⁶⁴Though the government forbade German debtors to transfer funds to foreigners in foreign currencies, the *Reichsgericht* made two important decisions about foreign currency credits and loans. One decision treated the existing exchange legislation as transitory and as of emergency character and, while recognizing the immediate impossibility of fulfillment, upheld contracts by Germans to pay debts in foreign currencies. Refusal of a permit to pay did not remove the obligation to pay from the debtor. The other decision held that German holders of dollar bonds might have the right of repayment at 4.20 to the dollar (the old par). This was applicable with reference to "Certified" dollar bonds, those which were the *bona fide* possession of German nationals. See *London Economist*, June 6, 1936, p. 550.

Young, and other loans. It was hoped that the same leniency might be shown certain Austrian obligations which had been guaranteed by a number of foreign countries. Much hinged upon the manner in which the Reich regarded the foreign obligations of Austria. There was considerable speculation whether Germany would repudiate the debt, or treat it as the debt of a German State (*Land*), in which case the German restrictions would be applied to it, or would make special concessions.

Foreign creditors could exercise some pressure upon the German government by threatening to adopt forced clearing or to attach Austrian assets in foreign countries. A Committee of the Guarantor States of the Austrian Loans met in London in June, 1938, to discuss certain important issues.⁶⁵ It was decided to address a united protest to Germany. Sir John Simon stated in the House that the British government would terminate the Anglo-German Payments Agreement on June 30, 1938, and leave the Government free to take any action it cared to after that date. It was implied that resort would be made to forced clearing, though there was some fear that such forced clearing might jeopardize the position of the Standstill credits which, up to this point, had enjoyed a favored position. The American creditors also addressed a note of protest on the default.

England finally concluded a new Payments Agreement, and a Transfer Agreement regarding the Austrian obligations.⁶⁶ Germany consented to pay at least part of the service upon the Austrian loans held by British owners and to make further adjustments in the German debts.⁶⁷ As a result of the arrangements certain advantages were given to the holders of German government bonds and the Austrian 7 per cent loan, and small gains to the holders of other obligations. British holders of the two guaranteed Austrian loans were left where they were and other Austrian creditors, though they escaped default, received a smaller amount in

⁶⁵Guarantors included England, France, Belgium, Czechoslovakia, Denmark, Holland, Sweden, and Switzerland.

⁶⁶Details of the Payments Agreements are given on pp. 109, 110.

⁶⁷Germany consented to pay at least part of the service due upon Austrian loans held by British owners. Interest was to be paid on the 7 per cent loan of 1930 at the rate of 5 per cent, with a cumulative sinking fund of 2 per cent. With regard to the two international guaranteed loans, the 4½ per cent of 1934-1959, and the 3 per cent conversion loan of 1933-1953, Germany undertook to reimburse the British government for any payment made under the latter's guarantees, and further, to pay in full all coupons presented by British holders. By this British holders of these loans were assured of their full interest, while non-British holders of the 1934-1959 loan were assured of at least 24½ per cent of the amount due, this being the extent of the British guarantee. Adjustments were made in the German debts. Interest on the Dawes and Young Loans, formerly 7 per cent and 5½ per cent respectively, was reduced to 5 per cent and 4½ per cent respectively, the margin of 2 per cent and 1 per cent respectively, being devoted to sinking funds. The amount of sterling to be provided (all these provisions applying only to British holders) was to be the same as before, but some was to be applied to redemption. The City of Saarbrücken 6 per cent loan of 1928, which derived its special status from the former international character of the Saar, was, by a new concession, placed on an equality with the Young Loan, both as to interest and sinking fund. Holders of all other German and Austrian bonds, who had been paid their interest only in the form of *Konversionskasse* bonds, were, for two years, to be paid up to half of the amounts due, with a maximum of 4 per cent. Since the *Konversionskasse* bonds were disposable only at a discount of more than 50 per cent this meant a small cash gain. *London Economist*, July 9, 1938, pp. 70, 78.

interest. In view of the fact that the only effective pressure that could have been placed upon Germany at the time would have been the joint pressure of all guarantors to the loans, the action of the British in attempting bilateral negotiations with the Germans was criticized. The German press gloated over the fact that the creditors' front had been broken. Subsequently arrangements were negotiated by the other creditors with Germany.⁶⁸

The rapid course of events in the early part of 1939 permitted no solid adjustment of Czechoslovakian liabilities with the principal interested parties who were, by September 4, 1939, belligerents. With the outbreak of the war all remittances from Germany to the Allied countries ceased.

COURSE OF STANDSTILL AGREEMENTS, 1935-1940

With progressive diminution of the Standstill debts, annual conferences concerning them lost significance. By February, 1935, but 1.65 billion Rm of the former 6.3 billion Rm covered by Standstill arrangements were employed, although the debt totaled around 2 billion Rm. Complete figures appear in Table 9 (page 118). It seemed that short-term credits outstanding were within the capacity of Germany and that the unavailed credit lines might well be left open for increasing needs of foreign trade. Under the 1935 arrangements⁶⁹ it was agreed that:

1. Uniform reduction of unavailed credit lines was impractical, but creditors could cancel 50 per cent of any credit lines or part thereof continuously unused for the previous two years.

2. German debtors could draw against unused credit lines still open only for financing international trade, not for financing business better handled by inland credits.⁷⁰

3. Import bills drawn on unavailed credit lines and accepted under bank-to-bank credits could be covered once out of the proceeds of the renewal bills, and had to be met in cash at maturity.⁷¹

4. Interest rates would be reduced in certain cases, about 0.25 per cent on cash advances and 0.50 per cent on other forms of short-term credits.

February 10, 1936, negotiations were begun on the sixth Standstill Agreement. Since no German budget figures had been made available for two years, and no figures for the balance of international payments had

⁶⁸For details of the agreement with France see *Wirtschaftsdienst*, September 23, 1938, p. 1295.

⁶⁹For further details of the settlement see *London Economist*, February 23, 1935, p. 424; *Wirtschaftsdienst*, February 22, 1935, p. 253.

⁷⁰This meant that once a credit line had been allowed to lapse it could only be revived to finance genuine trade and not for the purpose of drawing pure finance bills.

⁷¹This was equivalent to recommending that foreign money markets grant fresh accommodations for six months rather than the normal period of three months.

appeared since 1933, it was difficult to discover Germany's capacity to pay. It was apparent, however, that the liquidity of banks to whom credits had originally been granted was no longer impaired. This seemed good grounds for further concessions from foreigners.⁷²

Under the 1935 Agreement outstanding credit lines were about 2 billion Rm, of which 275 million were unused.⁷³ During 1935 outstanding credit lines were cut to 1.6 billion Rm of which 1.4 billion Rm were availed at the end of 1935. Of these credit lines 139 million were guaranteed by the Golddiskontbank. Conversions into registered marks during the last ten months of 1935 amounted to 362 million Rm, of which 296 million had been used for travel purposes.⁷⁴

The Creditors Agreement of 1936 provided that:⁷⁵

1. There were to be no alterations in interest rates.
2. Credit lines, or parts thereof, unused for three years, could be cancelled by the creditor.
3. If originally granted to an industrial or commercial creditor, and if continuously unused for two years, one third of the credits could be cancelled against an equivalent release of Golddiskontbank guarantees.
4. Import bills, drawn on unavailed credit lines and accepted under bank-to-bank credits, could, instead of being met in cash, be covered in part, and only once, out of proceeds of renewal bills.
5. The Reichsbank could receive a slight extension of rights of postponement on certain foreign exchange payments.

Few changes were effected in the Standstill negotiations in February, 1937. Cash repayments could not be made; credit lines unemployed for two and three years, and whose practical use to the German economy was doubtful, could be withdrawn. Those financing foreign trade were unaffected. By November, 1936, total short-term credits under the Standstill arrangements were about 1.2 billion Rm, of which 125 million Rm represented unavailed credit lines. Municipal Standstill arrangements renewed in 1934, 1935, and 1936, were again renewed, with minor alterations, until March, 1938. Total credits under the agreement amounted to around 42 million Rm as compared with 250 million Rm in March, 1932.

Though the Van Zeeland report of 1938 recommended the removal of international commercial and financial restrictions, the refinancing of

⁷²*London Economist*, February 15, 1936, p. 359.

⁷³*Ibid.*

⁷⁴*London Economist*, February 29, 1936, p. 474, and February 15, 1936, p. 359. American bankers were reported to have pressed for a retardation of registered mark withdrawals to improve their external value and lessen losses to the creditors. British creditors had preferred not to liquidate their credit lines at heavy losses. According to the Dutch and Swiss the Americans had driven down the price of the marks in the first place in attempting to liquidate claims. Later attempts were made to regulate dealings in registered marks, to support the price. It was provided that travel bureaus or tourist agencies could buy registered marks only from a bank domiciled in its own country. According to *Wirtschaftsdienst*, XXI, Heft, 6, February 7, 1936, p. 172, Americans had liquidated 85 per cent of their credits. British still had 36 per cent of total Standstill claims.

⁷⁵*London Economist*, February 29, 1936, p. 474.

Germany seemed increasingly less desirable for political reasons. Countries capable of lending Germany enough for financial rehabilitation were wary lest that aid make Germany too strong. Then, too, it was difficult to reconcile the normal methods of financing international commerce to clearing and barter. Germans saw some desirability in retaining a system which gave many of the advantages and few of the disadvantages of currency devaluation. Dr. Funk, in an address before the Leipzig Fair in March, 1939, stated that authoritarian countries had little desire to return to the international gold standard. Spokesmen for the National Socialists implied that the return of colonies would render a saving in free devisen, and viewed private debts more and more as commercialized reparations.

Late in 1937, the Standstill Agreement for 1938 was signed. There were few significant changes. Provision was made for the improvement of the quality of Standstill credits not utilized to finance trade, transfer of a portion of the credits guaranteed by the Golddiskontbank, and the cancellation of credit lines unavailed for two years.⁷⁶

Because of political developments in 1938 the diminution of tourist travel and of purchases of German long-term securities with blocked funds, was reflected in an increased discount on registered and other blocked marks. There were also increased offerings on "black markets" of reichsmark notes, at a heavy discount, particularly after the occupation of Austria. For a time, Austrian short-term obligations to foreigners fell under the jurisdiction of German devisen authorities. With the extension of the Standstill Agreement expiring February 28, 1939, to May 31, 1939, Austrian short-term debts to foreign banks and commercial concerns were included within the agreement.⁷⁷

The principle of recommercialization involved in the 1938 Agreement seemed to warrant a further extension of Standstill credits, for commitments to British creditors were decreasing. It was hoped that if Germany could revive trade with free devisen countries, the Standstill problem would eventually be solved. Domestic and international complications dictated otherwise. The violation of the Munich Accord and the successive steps which preceded the outbreak of the Polish-German War and the declaration of war on Germany by the Allies on September 3, 1939, permitted neither time nor opportunity to liquidate the remaining Standstill credits.

⁷⁶For details see *London Economist*, December 18, 1937, p. 593.

⁷⁷The agreement was worked out in November, 1938, by a Consultative Committee, for which arrangements had been made in the 1938 treaty. There was some speculation why the agreement was extended only three months. A partial explanation lay in a previous decision to hold meetings when weather conditions were more favorable in Berlin. Inclusion of the debts of the Sudeten districts, absorbed after the Munich Accord, was considered, but the creditors finally decided that they might get better terms from Czech banking debtors. For details see *London Economist*, December 3, 1938, p. 486.

The three months agreement of the fall of 1938 had been renewed May 16, 1939, with no substantial changes. Soon after the outbreak of the war with Germany, British creditors denounced the Standstill Agreement, which was inconsistent with regulations regarding trading with the enemy and with the injunction to cancel all foreign credit facilities. Germans stopped remittances on the Standstill credits. In cases where the British credits had been recommercialized, the creditors were able to seize cargoes destined for Germany which had been financed by certain of the Standstill credits. The American creditors probably fortified by their legal right of "set off" which would enable them to attach appreciable German assets in the United States, also denounced the Standstill Agreement.⁷⁸ On December 9, 1939, a German-American Standstill Agreement covering unpaid balances due the American creditors was signed. Provision was made that bills could be drawn by the Germans, but only to the extent that the indebtedness was paid off and only for the purpose of financing such shipments from the United States as would not violate the United States Neutrality Law. The New Agreement was to run for seven months from November 1, 1939, but could be terminated at the wish of the committees of the debtors or creditors. The Swiss, Belgian, and Dutch committees of creditors also negotiated separate agreements with the German debtors.

The position of unpaid balances, particularly those due France and England, at the end of the present war, will no doubt be conditioned by which party is victorious. Because of the deliberate liaison between reparations and the commercial debt created by the National Socialists, a German victory could mean outright repudiation. Neutrals continuing to trade with Germany and possessed of sufficient bargaining strength, may liquidate a fair share of the remaining debts.

After the fall of 1934, transfers on foreign debts were more or less subject to the vagaries of clearing agreements and were possible only when a surplus of deisen was available. In the fall of 1934 arrangements had been worked out with Czechoslovakia, France, Italy, Holland, and Poland whereby deisen were not available for certain articles in trade. An increase in commercial indebtedness, engendered by clearing agreements, jeopardized debt repayments and imports of vital raw materials. Therefore, in July, 1935, two *Durchführungsverordnungen*⁷⁹ to the deisen laws were employed to enforce the principle that permission had to be obtained for all imports, whether those imports came through clearing channels or not. Details regarding clearing debts are given in Chapter VII.

⁷⁸For details regarding the fate of the Standstill Agreement, see *London Economist*, October 14, 1939, p. 54.

⁷⁹*RGBl.* I, 1935, July 24, p. 1046.

Despite a growing export surplus, there was no increase in the influx of devisen, for devisen were used in part to cover debt charges. The use of blocked accounts for exports, the necessity of extending long-term credits to certain countries, and the employment of clearing and compensation also diminished the influx of devisen. World raw materials prices increased, and it finally became necessary to issue a law on November 9, 1935, preventing the exportation of important raw materials and foodstuffs.⁸⁰

DEVISEN CONTROL, 1935-1940

Devisen laws became increasingly strict. Early in 1935 changes in the devisen laws from May 23, 1932, to February 4, 1935, were recorded in a new codification.⁸¹ A major portion of the new material in the laws concerned the adjusting of the devisen controls to the "New Plan."⁸² This implied cooperation of authorities supervising the trade in goods, and those issuing devisen for imports. The place which the *Ueberwachungsstellen* took within the devisen control structure may be observed in Table 6.

In general the codification dealt with matters previously considered. Particularly important regulations concerned:

1. The outlining of bounds within which payments could be made in foreign currencies, and the functions which blocked accounts could be made to serve.⁸³
2. The definition of powers of particular offices with respect to devisen and import control matters.⁸⁴
3. The establishment and supervision of special clearing accounts with foreign countries.⁸⁵

The new devisen laws were brought into harmony with subsequent developments. A *Durchführungsverordnung* of July 24, 1935, attempted to prevent the further growth of commercial indebtedness to foreigners.⁸⁶ According to the original arrangements of the "New Plan," imports of goods were not forbidden outright; it was merely implied that no pay-

⁸⁰The German law of September 22, *RGBl. I*, 1934, p. 843, had made an attempt to govern the selling prices of raw materials and foodstuffs within Germany. Thus, the German exporter could really gain by exporting his supplies. For the law of November 9, see *RGBl. I*, 1935.

⁸¹Many of the changes that had taken place in the interim were not recorded in the *Reichsgesetzblatt*, in the form of laws, etc. Numerous instructions, *Runderlasse*, were sent out from the responsible authorities and appeared in various publications such as the *Deutsche Reichsanzeiger*, and the *Reichssteuerblatt*, although occasional reference is found concerning these instructions in periodicals such as *Die Bank*, *Wirtschaftsdienst*, and the *Deutsche Oekonomist*. Since the beginning of 1936 those instructions pertaining to devisen control matters appear in a special magazine, *Devisen Archiv*. Details concerning these publications can be found in the bibliography to this study. Certain of the instructions that were issued were not included in the codification, nor were they set out of effect by it.

⁸²*RGBl. I*, 1935, February 8, p. 105: "Bekanntmachung des Gesetzes über die Devisenbewirtschaftung und die Durchführungsverordnung zum Gesetz über die Devisenbewirtschaftung. Vom 4. February 1935," and *RGBl. I*, 1935, February 8, p. 119, "Richtlinien für die Devisenbewirtschaftung."

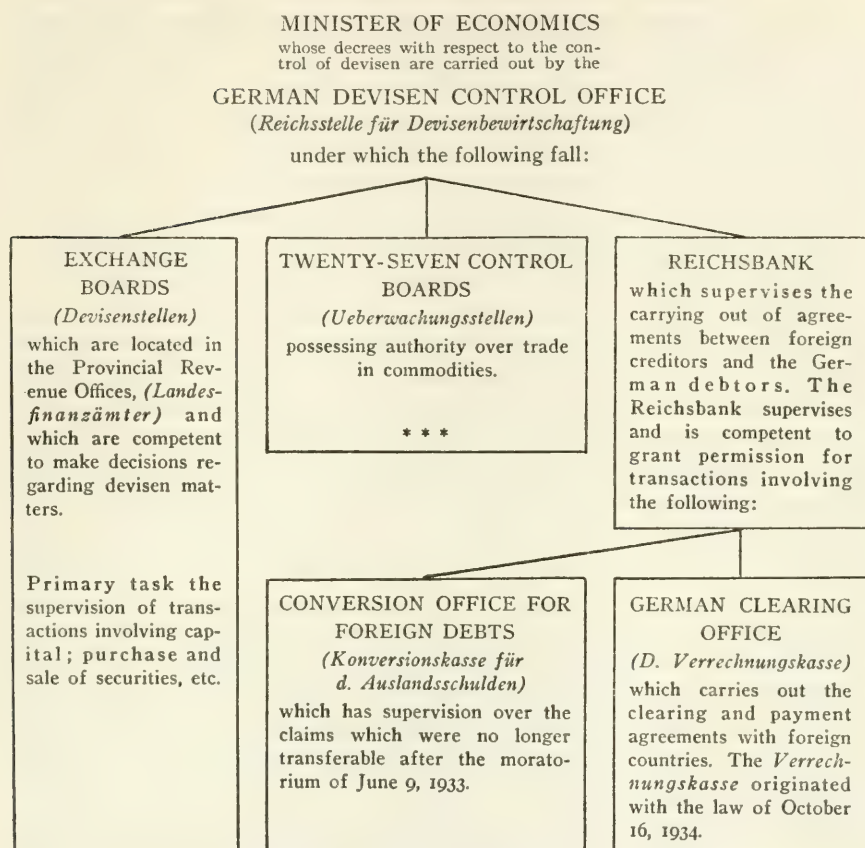
⁸³The uses to which accounts of foreigners might be put are indicated briefly in Appendix II.

⁸⁴The general line of authority and the general field of competence may be seen in Table VI.

⁸⁵These special accounts are discussed in detail in Chapter VI.

⁸⁶*RGBl. I*, 1935, July 27, p. 1046: "VO über die Einfuhr von Waren." Vom 24. Juli, 1935.

TABLE 6.—DEISEN CONTROL AUTHORITIES IN GERMANY



Source: Schramm, W., *Die Grundlegende Vorschriften der Deisengesetzgebung*, p. 7.

ments would be available for imports of goods made without permits. Imports continued, often without license. Since there was some tendency to smuggle out funds to make payments, it was finally decreed that all imports were subject to license. Attempts were made to close other gaps through which deisen leaked out of the country.

Since there had been a heavy outflow of German bank notes, Germans were forbidden to accept smuggled notes, and the quantity that foreigners were allowed to bring in was limited to thirty.⁸⁷ The outflow of reichsmark notes was particularly great in the fall of 1938 and spring of 1939. During the Olympics certain concessions were granted and a maximum importation per person of 60 Rm was permitted. The same decree pro-

⁸⁷*Ibid.*, December 1, p. 1408: "III. Durchführungsverordnung zum Gesetze über die Deisenbewirtschaftung."

vided for a closer check upon the transfer of capital through indirect means, particularly in the form of goods which emigrants took with them.⁸⁸ A Reich flight tax of 25 per cent on the property of emigrants was decreed April, 1938, and enforced severely on Jewish emigrants. Jewish emigrants were later forbidden to take bank balances out of Germany. As the anti-Semitic campaign increased in 1938-1939, after the Austrian occupation, and as amounts which could be liquidated through emigrant blocked accounts were reduced, emigrant marks fell to a new low. The discount on them increased to about 90 per cent.

Further measures applied to the supervision of the export and import of German coins,⁸⁹ and the requirement of obtaining permission from government authorities before one might set up as an "Advisor in Matters Pertaining to Devisen Problems."⁹⁰ Late in 1936 the export of marks under the previously prevailing free limit of 10 Rm was also restricted.

On November 19, 1936, provisions were made for the delivery up to the Foreign Exchange Banks of securities which were later to be announced.⁹¹ The Foreign Exchange Board's discretion to choose securities was unlimited, and foreign securities that were abroad were to be handed over irrevocably to the depot of a German foreign exchange bank with a foreign bank. This action was somewhat similar to the action previously taken in July, 1931, and again in June, 1933, when foreign assets had to be declared to the government authorities.

The first list of securities to be confiscated excluded Russian and southeastern Europe pre-war bonds, which were non-valeurs, but included 63 share or bond securities, including six officially quoted German Colonials. It was not expected that the government would proceed to realize the securities at once, for they were held as a National Exchange Reserve. During the latter part of 1936 and the early months of 1937, the gradually increasing export surplus offered some hope that the securities would not be sold, but conditions were less favorable after the summer of 1937. In the fall of 1937, Dr. Schacht decreed that all foreign securities, with the exception of certain non-valeurs, be reported to the Reichsbank. Securities owned by stock companies and other corporate bodies registered abroad were to be reported if they were controlled by foreigners or by foreigners resident in Germany. The quotations for the securities were depressed on the home bourse in anticipation of their purchase by the Reichsbank in marks. It was forbidden to sell securities

⁸⁸*RGBl. I*, 1935, September 12, p. 1149. Further provisions were made in this respect by a law of December 23, 1935 (*RGBl. I*, p. 1543), which made the check upon the transfers of emigrants retroactive through July 1, 1935. That is to say, those who had obtained permits for transfer after that date were not able to use their permits to the full extent to which they were originally granted.

⁸⁹*RGBl. I*, 1936, May 25, p. 467: "VO zum Gesetz über die Devisenbewirtschaftung."

⁹⁰*Ibid.*, June 29, p. 524: "VO über die Geschäftsmässige Hilfsleistung in Devisensachen." Vom. 29, June, 1936.

⁹¹*London Economist*, November 28, 1936, p. 411.

to private persons rather than to the Reichsbank. Maturing United States government bonds were also to be delivered up. A decree of 1939 required that all those coming under the deisen laws were to register with the Reichsbank and sell any foreign securities left to them, before April, 1939. Russian securities, Hungarian pre-war mortgage deeds, and municipal bonds, as well as other Austro-Hungarian securities did not have to be registered. In cases where the securities to be declared were abroad, the government incurred some difficulty.⁹²

Austrian foreign exchange control was brought into line with that of the Reich, and a Foreign Exchange Board was created in Vienna. Gradually exchange restrictions between Austria and Germany were removed. On January 1, 1939, a new exchange law, in reality a codification of previous regulations, came into force, and was extended to Austria and the recently acquired Sudetenland. In general there were no significant alterations of the previous laws, save that penalties for violations were increased. The temporary expedients adopted during the course of the war and applied to occupied territories are not strictly the concern of this monograph.

FACTORS INFLUENCING MEASURES OF CONTROL

During the period reviewed, various factors affected the nature of control measures adopted. A fall in exports to the point where imports exceeded them during 1933-1934 resulted in the "New Plan." Foreign trade in turn was affected by factors both domestic and international. In the international field, Germany found it difficult to compete with those countries whose currencies had been devalued, to surmount tariff barriers, or squeeze through the narrow quota doors. Because of her anti-Semitic policies, Germany faced a world boycott. Retaliation against German agricultural protection was also a significant factor in limiting German industrial exports.

Imports increased with increased business activity. Government orders for public works and armaments increased the need for foreign raw materials. Reichsbank reserves could not long support an import surplus. Rising world prices for raw materials further complicated matters.

Internally, affairs seemed to indicate some improvement, though a scarcity of foodstuffs and raw materials became more and more evident after 1935. The announcement of a "Four Year Plan" in the fall of 1936 indicated that there would be no great relaxation of efforts to attain a relatively great degree of self-sufficiency.

⁹²Germany could not appropriate anything in a foreign country. However, the government still had the power to threaten any German nationals who failed to declare securities. In cases where the securities were used as security abroad there were further possibilities of complications developing because of the fact that foreigners also had claims upon the securities.

Political factors, with their manifold economic and financial repercussions, were extremely important after 1934. The withdrawal from the League of Nations, the return of the Saar, the re-occupation of the Rhineland in March, 1936, and the denunciation of the war guilt thesis by Hitler in the fall of 1936, foreshadowed a vigorous German foreign policy for the years following. That policy included in turn a pact with Japan, intervention in Spain, the establishment of the Rome-Berlin axis, an anti-Comintern pact, the absorption of Austria, Memel, and the Sudeten territories, establishment of a protectorate over Bohemia-Moravia, and finally, rapprochement with Russia followed by war and the successive occupation of Poland, Denmark, and Norway and the invasion of Holland, Belgium, Luxembourg, and France. The more vigorous the policy, the greater the need for rearmament, and the greater was the need for foreign raw materials. As that need increased, the control over devisen, the regulations over the withdrawal of capital, and the confiscation of foreign securities owned by nationals became increasingly severe. The outbreak of the war severed the remaining obligations to two of the principal creditors, and the attack on Belgium and Holland meant the end of debt repayments to them.

CHAPTER V

IMPORT CONTROL, 1930-1940

A SIGNIFICANT ASPECT of control over international relations is governmental regulation of purchases, by nationals, of foreign goods and services. Such regulation may or may not be intended to safeguard exchanges, but it inevitably affects them, for it tempers the demand for devisen.

The connection between foreign commerce and the debt problem has already been made clear. Debt charges and withdrawals necessitated an export surplus. That surplus was possible through greater exports, diminished imports, or both. Yet diminution of imports was fraught with danger, for Germany depended on imports of industrial raw materials. Exports were impossible without them. Then too, import restriction could involve foreign retaliation and a consequent diminution of exports. Import restrictions, nevertheless, played an important role between 1930-1940.

POST-WAR COMMERCIAL POLICY

Recent German commercial policy is best understood against a background of post-war commercial developments. Germany had little to say about her own commercial policy immediately after the World War, for she was bound to accord, for five years after the application of the Versailles Treaty, most favored nation treatment to all Allied and Associated States without being entitled to reciprocity. Furthermore, for the first six months Germany could not impose duties on imports from these same states any higher than the most favorable duties applied to imports on July 13, 1914. For a further thirty months this provision was to be applied exclusively to products which previously enjoyed rates conventionalized by Treaties, and to all kinds of wines, vegetable oils, artificial silk, and scoured wool.¹ Other parts of the Treaty were aimed at crippling German export potentialities. The net result was commercial emasculation. Commercial autonomy was not regained until January 10, 1925, and until then German trade was hampered by import and export license systems,² supervision of goods movements by various inter-allied Commissions, and other disturbing factors.

With the exception of minor changes³ after the World War the Customs Tariff was still based on the Law of December 25, 1902. A

¹Delle-Donne, *European Tariff Policies Since the World War*, p. 107.

²Import regulation under license was to prevent importation of non-essential goods or dissipation of German assets; export control was to prevent export of goods needed in Germany.

³Treaties of November 24, 1921, September 27, 1932, and September 29, 1923, increased rates on various classes of goods, particularly luxuries.

Draft Bill for modification of existing customs tariffs was presented to the German Parliament in July, 1924. August, 1925, there was a partial revision affecting some 400 out of 946 headings. Duties on various competitive manufactured goods, and on many agricultural products were increased. Rates were general and subject to reduction by commercial agreements. After a super-tariff was set up in 1932 for application in trade with countries discriminating unduly against German goods, Germany maintained a three-schedule tariff system. During the few years after the 1925 revision, Germany signed a number of commercial agreements, mostly of the most-favored-nation variety.⁴ That of August 17, 1929, with France, was particularly indicative of a return to former relations. For the greater part, Germany's commercial relations resumed their pre-war character.⁵ Allowing for lower duties afforded by commercial agreements, total protection afforded industrial and agricultural products in 1925 was 20.4 per cent and 8.3 per cent respectively, as against 18.3 per cent and 6.7 per cent in 1913.⁶

THE PLIGHT OF GERMAN AGRICULTURE

German agriculture, long dependent on government aid, appealed not in vain when world wide agricultural depression made its effects felt in 1928 and 1929. However, aid given tended to assist growers of grain at the expense of the smaller dairy farmers, poultry farmers, etc. for whom the high grain prices signified higher production costs.⁷ Then, too, the resultant higher living costs necessitated higher wages at home and provoked foreign retaliation abroad. Both of the latter handicapped German exports.

Various investigations revealed that, after 1924, the majority of German farmers worked at a loss, despite the fact that heavy debts had been wiped away by the inflation. Such factors as the high cost of capital, inability to "rationalize" techniques, foreign competition, and alternately poor and abundant harvests, account for the precarious state of German agriculture.⁸ Conditions in eastern Germany, particularly among grain growers, were worst. According to Röpke, the year 1928-1929 marked the time when the German government had to choose whether to adjust

⁴Principal treaties were with Greece, Norway, Turkey, Russia, Netherlands, Honduras, Portugal, Spain, Denmark, Finland, Latvia, Italy, Sweden, France, Japan, Bolivia, Panama, Union of South Africa, China, Great Britain, Estonia, Lithuania, Poland, Austria, Yugoslavia, and Switzerland. Résumés of the various treaties may be found in the annual report of the British Department of Overseas Trade on *Economic Conditions in Germany*. They also appear in the *Deutsches Handels-Archiv*, in full. For a complete list of the countries with whom Germany negotiated most-favored-nation treaties through March 10, 1929, see *Deutsches Handels-Archiv*, XVII, v. I, May 1, p. 1055.

⁵*Ibid.*, *op. cit.*, p. 222.

⁶*Ibid.* The whole plane of protection was higher than before the war.

⁷For material on German agricultural tariffs see J. H. Clapham, *Economic Development of France and Germany, 1815-1914*, Cambridge, 1921, pp. 209-214; and Röpke, *German Commercial Policy*.

⁸DOOT, *Economic Conditions in Germany*, June, 1928, p. 168.

agriculture to new circumstances after a pattern set by the Danes,⁹ or to support grain production by protection and intervention. Germany chose to do the latter and embarked on a policy "which was eventually to shake the total economic structure of Germany to its foundation."¹⁰

Assistance to agriculture took a number of different forms. A bill passed by the Reichstag on March 31, 1928, provided for the funding of agricultural indebtedness, special credits to promote the marketing of agricultural products, subsidies to agricultural associations, and special funds for the promotion of certain phases of agriculture.¹¹

Still earlier, October 1, 1925, the pre-war system of import bonds had been reintroduced to help dispose of a surplus of rye in northern and eastern Germany.¹² Although the German government submitted to the legislative bodies a draft bill for putting into effect the recommendations regarding the general reduction of tariffs agreed upon at the Geneva Conferences,¹³ the general reductions never became effective. As a matter of fact, the tendency was toward higher tariffs, particularly on agricultural commodities. By the end of July, 1929, tariffs had been increased on wheat, rye, oats, flour, butter, cream, potatoes, and sugar.¹⁴ Assistance to agriculture was continued in the early part of the year 1929, and certain of the measures provided for in the bill of March 31, 1928, were extended.¹⁵

IMPORT CONTROL, 1929-1931

Intervention in agricultural markets through legislation and creation of special monopolies in 1929-1930 constituted a new method of attack on agricultural problems.¹⁶ Measure introduced provided for financial assistance in the form of guarantees, credits, a Five Year Relief Plan for Eastern Provinces and abolition of Rentenbank mortgage interest; market intervention in support of rye, cattle, cheese, and potato flakes; regulation of the milling of home grown wheat and compulsory utilization of home grown wheat for bread; establishment of a maize monopoly; compulsory use of grain alcohol in motor fuels; promotion of standard-

⁹The Danes had resorted to agriculture on a smaller scale and had developed the dairy products industries, etc. Farming on such a plan was designated by the term *Veredelungswirtschaft*.

¹⁰Röpke, *op. cit.*, p. 57.

¹¹DOOT, *ibid.*, p. 168.

¹²Holders of such bonds were entitled to tender them for their face value in payment of import duty on the following: Rye, wheat, spelt, barley, oats, buckwheat, beans, peas, fodder-beans, lupines, vetches, maize, and dari. (DOOT, *ibid.*, p. 169).

¹³The bill introduced provided for the ratification of the four agreements arrived at in Geneva on November 8, 1927, and July 11, 1928, respectively. In its second part, the bill contained proposals for the reduction of the autonomous duties on 141 items of the German customs tariff. The bill was passed by the Reichstag, but no action was taken on it.

¹⁴For an approximation of the increase see DOOT, *Economic Conditions in Germany*, 1928-1929, p. 39.

¹⁵*Ibid.*, pp. 131-32.

¹⁶DOOT, *Economic Conditions in Germany*, July, 1930, p. 12.

ization; and customs measures and import bonds. The last-named are especially significant to analysis of control over imports, though the act of July, 1929, providing that German mills grinding foreign wheat use a fixed proportion of home grown wheat, also had direct effect upon imports.¹⁷ A Reich Maize Office, created March 26, 1930, was the sole authorized channel through which home-grown or imported maize could be brought to the market, or exported.¹⁸

Measures for the support of agriculture were supplemented by bills dated December 22, 1929, March 6, 1930, and April 15, 1930, concerning foreign trade in foodstuffs, the combined effect of which was either to increase duties or place them on a sliding scale.¹⁹ Sliding scale duties affected such items as rye, wheat, pigs; other duties, such commodities as cereals, flour, meals, starch, cattle, and sheep, peas, eggs, and frozen meats.²⁰ Even certain industrial items such as boots and shoes, iron, sand, and steel shavings, and rubber and celluloid toys were subject to increased import duties. Application of certain duties waited upon the expiration of various commercial treaties. Special minimums were set below which conventional duties on sheep, swine, frozen meats, and butter could not go. These tariff changes also provided new figures for the values of import bonds.²¹

Agricultural protection on such a grandiose scale affected German commercial relations. By July, 1930, sixteen countries made inquiries and protests and prepared retaliatory measures. Attempted agreements with individual countries were challenged by countries with whom Germany had most-favored-nation treaties. Agricultural associations in Holland, Sweden, and Denmark protested a potential German agreement with Finland. Within Germany, the Federation of German Industries, the Federation of German Wholesalers and Exporters, the Association of Corn Fodder Merchants, and the Central Union of Retailers objected to agrarian protection.²² The *Vermahlungszwang* forced some of the larger

¹⁷The use of a portion of home grown wheat and other grains milling of flour was indicated by the term *Vermahlungszwang*. The quantity, first fixed at 30 per cent was varied from time to time by the Minister of Agriculture. The original act was to expire July 1, 1930, but was replaced by a later act of indefinite duration.

¹⁸For details of the organization of this office see *Board of Trade Journal*, April 3, 1930, p. 461-2.

¹⁹*Board of Trade Journal*, January 2, 1930, pp. 19-23, and January 9, 1930, p. 62, tariff amendment of December 22, 1929; May 8, 1930, p. 643 for amendment of April 15. See also the *Reichszollblatt*. Notice of tariff changes and reference to sources of information may also be found in the *Deutsches Handels-Archiv*.

²⁰Imports of meats were affected by the Meat Inspection Law of 1900, re-introduced as of July 1, 1930, providing that carcasses of meat animals should not be admitted unless the internal organs were still attached. Permission to import certain quantities of meat, duty free, was withdrawn on the same date; thus a veterinary regulation became an effective trade barrier.

²¹DOOT, *Economic Conditions in Germany*, June 1930, p. 43, a brief explanation of the Import Bond. See also *Board of Trade Journal*, May 22, 1930, p. 704; May 29, 1930, p. 733, and June 5, 1930, p. 763.

²²Objection was based on the ground that such protection would result in a higher cost of living, higher wages, a loss of purchasing power, a loss of competitive power on world markets, and foreign retaliation. There was also resentment because protection benefited owners of big estates, handicapped small farmers owning cattle, pigs, poultry, vegetables, and fruit.

mills in southwestern and northern Germany to apply for permission to close during the month of August, 1930.²³

Despite objections, attempts to stimulate grain production continued. During late 1930 and early 1931, further financial assistance was given. Price stabilization, compulsory utilization of certain products, the formation of syndicates, and efforts to standardize products continued.²⁴ A scheme for the relief of the eastern districts of Germany was finally worked out in three laws dated March 31, 1931.²⁵ Still higher duties were provided for agricultural produce, primarily cereals, milling products, fodder, potatoes, sugar, fats, and meat products.

Throughout 1929 and early 1930, Germany negotiated most-favored-nation commercial treaties. Many tariff increases were not immediately effective because of commercial agreements providing lower rates.²⁶ The Brüning government was empowered to alter customs treatment for certain agricultural products and foodstuffs in cases of emergency, from April 1, 1931, to March 31, 1932. Alterations had to be submitted to the Reichsrat and rescinded at its demand.²⁷

Grain exporting countries were not the only ones to retaliate. The *Veredelungswirtschaft*, seriously handicapped by high fodder prices, also sought protection,²⁸ and this protection provoked retaliation on the part of Holland, Switzerland, Czechoslovakia, Hungary, Italy, France, and the Baltic and Scandinavian countries who supplied Germany with *Veredelungsprodukte* and took a large share of industrial exports.²⁹ It became necessary to revamp mutual concessions made by Germany and each of these countries.

IMPORT CONTROL, 1931-1933

Germany was not alone in setting up import restrictions. Every country in Europe, including Great Britain, increased tariff protection. Many resorted to the same financial measures to which Germany resorted during and after the financial crisis of 1931. Desire to maintain exports

²³DOOT, *ibid.*, p. 14. By August 16, 1931, the proportion of home grown wheat to be milled to the total quantity ground was fixed at 97 per cent.

²⁴For details see DOOT, *Economic Conditions in Germany*, September, 1931, pp. 176 ff.

²⁵RGBl. I, 1931, April 8, p. 117. "Gesetz ueber Hilfsmassnahmen für die notleidenden Gebiete des Ostens (Osthilfegesetz) Vom. 31. März 1931." Provisions were made for relief of eastern districts through lowering of taxation, interest rates, freights; for construction of railways; and for relief of general economic and social distress. Chief object of the scheme was consolidation and conversion of agricultural indebtedness in the area east of the Elbe, excepting Schleswig-Holstein, with the assistance of public guarantees and funds amounting to about 1 billion Rm over a period of six years. For an analysis of the general eastern situation see A. Plutynski, *The German Paradox*, Wishart and Co., London, 1933. For a critique of the "Osthilfegesetz" see H. Kienlen, "Problematische Osthilfe," *Wirtschaftsdienst*, XVI, Heft 27, July 3, 1931, p. 1165, and Heft 28, July 10, 1931, p. 1215.

²⁶For details concerning commercial treaties during the latter half of 1929 and the first half of 1930 see DOOT, *Economic Conditions in Germany*, July, 1930, pp. 43-50.

²⁷DOOT, *ibid.*, p. 182, or *Board of Trade Journal*, April 23, 1931, p. 545.

²⁸*London Economist*, February 28, 1931. Agitation for increased duties on fruits, vegetables, bacon, lard, cattle, eggs, and butter began in the early part of the year 1931.

²⁹Röpke, *op. cit.*, pp. 60, 61.

led to currency depreciation, exchange controls, clearing arrangements, and other abnormal measures.³⁰ With respect to German commercial policy from 1931 to 1933 we note:

1. A tendency toward higher protection.
2. The introduction of foreign exchange quotas.
3. A gradual change in commercial agreements as the former most-favored-nation agreements lapsed.
4. The introduction of import quotas.

Most important tariff increases after July 1, 1931, were on butter, cream, cheese, bacon, and lard, in response to demands of the *Veredelungswirtschaft*.³¹ With the expiration of certain commercial treaties a greater proportion of imports were affected by higher duties. The *Veredelungswirtschaft* obtained one concession, a lower duty on barley for fodder, though barley imports depended on the purchase of certain quantities of marked German rye, potato flakes, and other German grains, from specified centers.³² However, this concession was counterbalanced by an order of June 5, 1931, providing for customs treatment of products containing nitrogen or phosphorus and intermediates thereof,³³ and a subsequent order of August 17, 1931, subjecting the import of certain fertilizers to license.³⁴

Agricultural relief measures introduced in the period 1929-1931 were continued and amplified between 1931 and 1933. There was further standardization and stabilization of markets for various products, including barley fodder.³⁵

With the fall of the English pound and associated currencies, September 21, 1931, the problem of adjusting domestic to world prices through tariffs became increasingly difficult. A decree of December 1, 1931,³⁶ empowered the German government, until the Reichstag might be reconvened,³⁷ to change individual import duties, and negotiate bilateral

³⁰For a good analysis of the various restrictive measures introduced see Walter Greif, *Neue Methoden der Handelspolitik*, 1934. See also *Wirtschaftsdienst*, November 13, 1931, p. 1865 (XVI, Heft 46). Hans. O. Wesemann, "Verwirrung in der internationalen Handelspolitik," and *Weltwirtschaft*, January, 1932, p. 19. "Deutschlands handelspolitische Beziehungen zum Auslande im Jahre 1931."

³¹*London Economist*, January 23, 1932, p. 173. The agricultural crisis spread to the stock farmers of the west and south where conditions had previously been fairly satisfactory. Their condition was complicated by the high cost of fodder, a result of tariff protection, by competition from countries with depreciated currencies, as well as by the decrease in purchasing power of the German public.

³²*Board of Trade Journal*, July 16, 1931, p. 80; December 3, 1931, p. 724; December 24, 1931, p. 810.

³³RGBl. I, 1931, June 6, p. 279.

³⁴*Board of Trade Journal*, August 27, 1931, p. 276. It is difficult to understand what the government was attempting to accomplish with increased duties on fertilizers, for the precarious position of agriculture was such that it became necessary in the early part of 1932 for the government to provide guarantees in order to secure the necessary supply of fertilizers. The same applied for the autumn of 1932. See DOOT, *Economic Conditions in Germany*, September, 1932, p. 124.

³⁵For details see DOOT, *Economic Conditions in Germany*, September, 1932.

³⁶RGBl. I, 1931, December 3, p. 689: "VO des Reichspräsidenten über Zolländerungen und über die vorläufige Anwendung zweiseitiger Wirtschaftsabkommen."

³⁷During the period 1930-1933, the Reichstag did not assemble often. Much legislation was in the form of emergency decrees. Thus there was no great change when the National Socialists adopted the same method of legislation.

trade agreements with foreign countries. January 18, 1932, a second decree empowered the government, in event of emergency, to raise equalizing tariffs on goods coming from countries with devalued currencies and to raise tariffs relatively higher on goods coming from countries with whom Germany had no commercial treaties, or which treated German goods less favorably than those of a third country.³⁸

The above-mentioned decrees were reiterated in Part IV of the *Verordnung des Reichspräsidenten zum Schutze der Wirtschaft* of March 9, 1932.³⁹ General tariff increases were introduced February 29, 1932,⁴⁰ affecting countries with whom Germany had no commercial treaties or who discriminated against German goods. Countries affected were designated by specific decrees, the first of which appeared March 14, 1932, with reference to imports from Canada and Poland.⁴¹ Not only agricultural products were subject to higher rates of duty. Effective as of September 6, 1932, duties were raised on certain industrial products including cotton yarns, woolen tissues, linen, jute tissues, and waterproof material and clothing. Increases in some cases were over 200 per cent.⁴²

Though for a time, an attempt was made to distinguish between urgent and less urgent imports, arrangements were finally made for the satisfaction of import requirements without distinction. Devisen control was not an instrument of German commercial policy until the introduction of the "New Plan" in the fall of 1934.⁴³ According to provisions of the *Richtlinien für die Devisenbewirtschaftung* of June 23, 1932:⁴⁴

1. Devisen Offices could grant permission to acquire devisen for imports if importers could prove they were purchased before August 4, 1931.

2. Permission to obtain devisen could be given an importer furnishing a statement from his competent *Industrie- und Handelskammer* that, within the bounds of his former business, he had paid similar sums for imports.⁴⁵

³⁸RGBl. I, 1932, January 19, p. 27: "VO des Reichspräsidenten ueber ausserordentliche Zollmassnahmen." It was also provided that if treaty negotiations were under way the government might wait six months before applying discriminatory tariffs.

³⁹RGBl. I, 1932, March 10, p. 121.

⁴⁰Ibid., March 7, p. 101: "VO über die Einfuhrung eines Obertariffs vom 29. Februar, 1932."

⁴¹Ibid., March 20, p. 142: "VO über die Anwendung des Obertariffs auf Boden-und Gewerbeerzeugnisse kanadischen und polnischen Ursprungs. Vom 14. März, 1932." See also, RGBl. I, 1932, April 1, p. 166. By a further decree of June 22, 1932, RGBl. I, 1932, June 28, p. 316, arrangement was made for discrimination against Canadian products to cease after July 1, 1932.

⁴²DOOT, *Economic Conditions in Germany*, September, 1932.

⁴³In some European countries devisen were granted only for importation of certain commodities, or for commodities from specific countries. For an analysis of the use of devisen control as a commercial weapon see Walter Greif, *op. cit.*, pp. 32-39.

⁴⁴RGBl. I, 1932, June 28, p. 317 (III. Abschnitt).

⁴⁵This did not hold for payments to Russian firms, for goods from the Saar, for payments to Hungary with whom clearing arrangements had been made, for payments bound up with reparations deliveries in kind, for payments amortizing obligations not the object of Standstill arrangements, or for payments for cellulose, wheat, spelt, rye, barley for fodder, and maize. For Hungarian goods it was necessary to get permission for payments into a *Sonderkonto* at the Reichsbank. Permission could only be obtained from the central devisen offices in Berlin for purchase of cellulose.

TABLE 7.—DEVISEN QUOTAS AND FOREIGN TRADE

	Percentage of base period ¹		Monthly sum in million Reichsmarks	
	Highest devisen quota	Quotas for use of reimbursement credits	Value of imports	Balance of trade
1932—March.....	75	100	364	+ 163
April.....	55	100	427	+ 54
May.....	50	100	351	+ 96
(Unchanged till February, 1934)				
1934—March.....	45	100	398	+ 3
April.....	35	70	398	- 82
June.....	10	20	377	- 38
August.....	5	10	343	- 9
(Cut out entirely after October, 1934)				

¹The basic sum was based on the average monthly requirements for devisen for the firms concerned in the period July 1, 1930 to June 30, 1931.

Source: Benning, B., "Der 'Neue Plan' und die Neuordnung der deutschen Aussenwirtschaft," *Jahrbücher für Nationalökonomie und Statistik*, Band 142, p. 36.

3. Permission to obtain devisen was granted for a limited period of time, and devisen might be obtained only when payments were due, or shortly beforehand. Information had to be furnished regarding transactions carried on in the previous month.

4. Devisen Offices could grant permission to get devisen if the imports concerned were indispensable. The Minister of Economics could designate goods for which import devisen were available.

5. A competent *Industrie- und Handelskammer* could grant permission for the payment of certain sums for transport costs, services, etc.

With the above-noted exceptions German importers were free to use devisen which they obtained for desired imports, regardless of origin. Some rationing was carried on in that only certain percentages of devisen formerly available within a given period of time were available for each importer.

Certain imports could be financed through Standstill "reimbursement" or acceptance credits, and could be regulated by cutting down the percentages of such credits available for use. No discrimination was made between commodities or sources until *Ueberwachungsstellen* were set up, during the latter part of 1933 and early 1934. With the introduction of the "New Plan" discrimination became common. Table 7 indicates percentages of devisen and reimbursement credit lines available for imports from March, 1932, to August, 1934.⁴⁶ As the export surplus dwindled, quantities of devisen and utilization of Standstill acceptance credit lines were cut.

⁴⁶Cutting of quotas did not necessarily have an equivalent effect upon imports, for imports could be continued and payments affected through clearing agreements. Then, too, certain imports were financed on foreign credits, collection for which had to be made through special agreements.

The decree of December 1, 1931, definitely marked the beginning of a movement toward preferential commercial treaties. As former most-favored-nation treaties lapsed, or were broken, treaties calling for higher tariff rates, or preference were substituted.⁴⁷ The fact that more than 75 per cent of German exports went into European territory stimulated the desire to have close relations with other European countries.⁴⁸ The wish to have a greater area within a single tariff wall led to an attempt to form an Austro-German Customs Union in the spring of 1931, an attempt foiled by political resistance in other countries, particularly France. Attempted preferential agreements with Hungary and Rumania also fell through because of the reaction of overseas countries with whom Germany had most-favored-nation treaties.

Most-favored-nation treaties were modified in many cases by supplementary agreements, many of which established quotas.⁴⁹ In certain cases import quotas furnished a means of evading violation of existing most-favored-nation commercial agreements. This was one reason why the quota became so popular. For another thing it was a particularly adaptable means of protection during years of rapidly changing prices, for it eliminated the necessity of making frequent alterations in tariff rates.⁵⁰ Quotas could be arrived at by treaty, or autonomously. Treaty quotas involved a tremendous amount of work. In 1932 Germany was forced to make 48 different quota arrangements with France alone.⁵¹ Interesting examples of the tariff quotas⁵² are found in the German-Austrian Commercial treaty of April 12, 1930, for cotton yarn, and the German-Finnish commercial arrangement of August 28, 1930, concerning butter. It was difficult for Germany to discriminate between countries when establishing import quotas and tariff quotas. Discriminations caused retaliation by countries affected which finally forced Germany to substitute for a rigid butter quota, proportionate amounts based upon butter

⁴⁷For an excellent treatment of the replacement of most-favored-nation commercial treaties by preferential treaties see Louise Sommer, *"Neugestaltung der Handelspolitik, Wege zu einem intereuropäischen Präferenzsystem"*, Berlin, 1935. Preference was a means of building up economic units out of a number of neighboring countries, and was strongly advocated by those wishing to see Germany expand into the Danube region. Expansion and participation in such economic blocs was designated as a *Grossraum* movement. Germany attempted, however, to retain the most-favored-nation treaty where possible. For treaties negotiated during the period 1931-1933 see DOOT, *Economic Conditions in Germany*, September, 1932, pp. 64 ff.; June, 1933, pp. 57 ff.

⁴⁸Flach, H., "Handelspolitik und Krise," *Die Bank*, Band 48, Heft 51-52, December 24, 1931, pp. 1724-28.

⁴⁹Sometimes after most-favored-nation treaties had been denounced by one or both parties concerned, new treaties concerning quota arrangements were negotiated. Such treaties came into effect with Switzerland and France among others. See *London Economist*, November 12, 1932, p. 882.

⁵⁰For a careful and critical analysis of the quota systems developed after 1929 see Kurt Häfner, "Die Politik der mengenmässigen Einfuhrregulierung," *Weltwirtschaftliches Archiv*, XL, Teil 1, II, p. 59. See also, Haight, F. A., *French Import Quotas*, London, 1935, Chapter I.

⁵¹Weber, A., *Handels-und Verkehrspolitik*, München, 1935, p. 570.

⁵²Two principal types of quotas were: 1. the tariff quota (*Zollkontingent*), providing that only so much of a certain article could enter at a specified rate, importations beyond that quantity to be subject to higher rates, and 2. the import quota (*Einfuhrkontingent*), providing that only so many units, or a certain value, of a given article could enter the country within a given period of time.

exports formerly sent to Germany.⁵³ German agriculture demanded application of import quotas to tomatoes, cabbages, and other vegetables which were sent in cheaply from abroad, particularly from Italy, though the government long maintained that such regulations could be undertaken only as commercial treaties lapsed.⁵⁴ Late in 1932, Herr Braun, Food Minister, announced a reduction of interest on agricultural debt, and new quotas on peas and cabbages, tomatoes, fruits, hewn softwood and pulpwood, animals for slaughter, butter, bacon, and lard. No cereals were included. Most of the proposed quotas were of little significance to German agriculture as a whole, though some specialized farms could have benefited from removal of Dutch, Italian, and French competition.⁵⁵ A German delegation was appointed to negotiate incorporation of the German quota system into the commercial treaties with Belgium, France, and Italy.⁵⁶ Negotiations with Italy floundered, and commercial warfare resulted. A special foreign exchange commission and a quota delegation were hurriedly sent to Rome when the Italian government announced to the Reichsbank its intentions of levying particular restrictions upon German funds in Italy.⁵⁷ The German *Grüne Front*, a prominent central organization of the agricultural unions, insisted that Chancellor von Papen set the quotas into force immediately. No definite agreement was reached in Italy and the quota delegation left for Paris. In November the proposal for general agricultural quotas was dropped.⁵⁸ The possibility still existed for increasing agricultural duties when treaties were renewed. Certain quota arrangements were worked out within commercial treaties with France and Switzerland.

The French, despite their generous use of quotas, were not able to arrive at a satisfactory relationship with Germany.⁵⁹ Negotiations were commenced in Berlin November 21, 1932, regarding revision of the Franco-German commercial treaty of August 17, 1927. German exports to France had increased relatively more than imports from France. Consequently, the French argued that, since it was no longer necessary to transfer reparations, all concessions granted Germany to facilitate repara-

⁵³For an account of Germany's experience with the butter quota see Greif, *op. cit.*, pp. 22-23; and Weichelt, O. H., "Die Gefahren des Butterzolls," in *Wirtschaftsdienst*, January 22, 1932, p. 71.

⁵⁴*London Economist*, September 24, 1932, p. 549. The argument of the government was somewhat weakened by the fact that foreign governments had not hesitated to introduce quotas despite existing commercial arrangements.

⁵⁵*Ibid.*, October 1, 1932, p. 592.

⁵⁶Wünsch, Josef, "Ein Ausweg aus dem Kontingentstreit," *Wirtschaftsdienst*, November 25, 1932, p. 1575. There was an evident lack of wisdom in the quota arrangements, for Germany exported more to the countries against whom she wanted to erect quotas than she imported from them.

⁵⁷Germany had clearing arrangements with Italy and the funds represented sums due German exporters. Germany had denounced the clearing agreement as of October 1, 1932, partly because of reasons connected with aid to agriculture, and partly because the clearing arrangement allowed Germany additional exports only to the extent that Germany took additional imports from Italy. Arrangements were finally made whereby the old clearing agreement was reopened on such a basis that trade was proportioned according to exports and imports in 1931.

⁵⁸Only pulpwood and lard quotas were introduced.

⁵⁹Haight, *op. cit.*, pp. 97 ff.

tions payment through exports of goods to France should be removed. A supplementary agreement to the Treaty of 1927, reached December 28, 1932, was put into force provisionally, February 1, 1933. Typical of precautionary measures introduced in the new commercial agreements, was a clause providing that either party to the agreement could terminate fixed duties in certain classes of goods upon 14 days' notice.⁶⁰

After October 1, 1931, the quota on coal imports from England was reduced, partly to protest English discriminations against German goods, but primarily to relieve the Ruhr district whose output had fallen steadily. To prevent margarine, whose manufacture required heavy imports of raw materials, from competing with butter, the price of which had risen as a consequence of quotas, a decree of December 23, 1932, provided that the government could require the use of German products in whole or in part, in margarine production and could determine to what extent German oil mills were to use German oil seed.⁶¹

IMPORT CONTROL UNDER NATIONAL SOCIALISM 1933-1940

After the National Socialist Party assumed control of the government, January, 1933, German commercial policy was influenced by significant internal factors such as attempts to:

1. Stabilize agriculture and build up the farming class (*Bauerntum*).
2. Aid small producers through compulsory cartels.
3. Maintain raw material imports necessary for industries whose continuous operation was important for exports and the re-employment program, while preventing influx of unnecessary materials.
4. Adjust imports to supplies of devisen.
5. Develop self-sufficiency through the stimulation of domestic industries (*Ersatzindustrien*) by means of protection.

The National Socialist government wished to coordinate the agricultural program with the general economic program—a matter which had not been accomplished in the previous three years.⁶² Of basic significance for the relief and strengthening of the *Bauerntum* were three laws, the *Reichserbhofgesetz*⁶³ (Hereditary Farms Act), the *Reichsgesetz über*

⁶⁰DOOT, *Economic Conditions in Germany*, June, 1933, p. 59. On the strength of the provision contained in the supplement, Germany denounced, effective as of March 1, 1933, duties on a number of agricultural and industrial products fixed in the supplement. Under terms of the supplementary agreement France could introduce equivalent duty increases.

⁶¹PGZl. I, 1932, December 28, p. 575: "VO des Reichspräsidenten zur Förderung der Verwendung inländischer tierischer Fette und inländischer Futtermittel. Vom 23. Dez. 1932." For a comprehensive analysis of the whole problem see Brandt, Karl, *The German Fat Plan and Its Economic Setting*, Food Research Institute, Stanford University, California, 1938.

⁶²For the goals of National Socialist Agricultural policy see *Wochenbericht des Instituts für Konjunkturforschung*, Sondernummer, March 21, 1936, p. 12.

⁶³For a legal résumé, see RGBL. I, 1933, pp. 685, 749, 1096; RGBL. I, 1934, pp. 349, 594; RGBL. I, 1935, pp. 9, 739, 1060.

die Neubildung deutschen Bauerntums⁶⁴ (Law for the Reconstruction of the German Peasantry), and the *Reichsnährstandsgesetz*⁶⁵ (The Reich Food Estate Law) of the fall of 1933. The *Reichserbhofgesetz* was to free agriculture from entanglements of the capitalistic economy and give security to the small German farmer; the second law encouraged settlement; the Reich Food Estate Law regulated production and sale of agricultural products and represented complete subordination of all phases of German agriculture and related industries to government control. For the regulation of agricultural imports there were erected, under the direction of the Ministry of Economics, a number of *Einfuhrüberwachungsstellen*, at first limited in number, but later increased under the "New Plan" of 1934. Some of the more important supervisory offices erected during the years 1933-1934 included the *Reichsstelle für Eier*,⁶⁶ the *Reichsstelle für Milcherzeugnisse*,⁶⁷ the *Reichsstelle für Oele, und Fette*,⁶⁸ the *Reichsstelle für Tiere und tierische Erzeugnisse*,⁶⁹ and the *Reichsstelle für Getreide, Futtermittel und sonstige landwirtschaftliche Erzeugnisse*.⁷⁰ (Control Offices for eggs, milk products, animals and animal products, grains and fodder, other agricultural produce, and oils and fats.) There were also amplifications of the decree of December 23, 1932, regarding animal fats and domestic fodder.⁷¹ Through the *Reichsnährstand* it was also possible to encourage production of flax, hemp, rapeseed, linseed, lupine, certain oil plants, sheep,⁷² fish, meat, tobacco, alcohol, and other essentials.

To this point control over agricultural imports has received the most attention. German industry was also the object of increased protection. Rye and iron had always been focal points of German commercial policy. Growers of grains and cartels of the heavy industries were well protected even before the World War. For a discussion of the pre-war and post-war cartel policy, and its close relationship to protection, the reader is referred to other sources.⁷³ Discussion here concerns encouragement given the cartel movement by the National Socialists. Protection was an inevitable concomitant of cartels, for they usually increased domestic prices.

Two cartel laws of 1933 effected substantial changes in the *Kartell-*

⁶⁴*RGBl.* I, 1933, pp. 517, 647; *RGBl.* I, 1935, pp. 1, 1165.

⁶⁵*Ibid.*, pp. 626, 1060; *RGBl.* I, 1934, pp. 32, 100; *RGBl.* I, 1935, p. 170.

⁶⁶*Ibid.*, December 21, p. 1094: "Gesetz über den Verkehr mit Eiern."

⁶⁷*Ibid.*, December 23, p. 1109: "VO über den Verkehr mit Milcherzeugnissen."

⁶⁸*Ibid.*, April 6, p. 166: "VO über die Errichtung einer Reichsstelle für Oele und Fette."

⁶⁹*Ibid.*, March 24, p. 224: "Gesetz über den Verkehr mit Tieren und tierischen Erzeugnissen."

⁷⁰*Ibid.*, June 1, p. 313: "Gesetz ueber die Umwandlung der Reichsmaisstelle."

⁷¹*Ibid.*, March 24, p. 143: "II. VO des Reichspräsidenten zur Förderung der Verwendung inländischer Futtermittel."

⁷²Law of June 12, 1933, imposed on all establishments combing and spinning wool the obligation to use certain minimum quantities of home-produced wool. *RGBl.* I, 1933, June 17, p. 359. "Gesetz zur Förderung der Verwendung Inländischer Schafwolle."

⁷³One may consult the following: Röpke, *op. cit.*, Chapter V. Levy, Hermann, *Industrial Germany*, Cambridge, 1935. Bruck, Werner F., *Road to Planned Economy*, London, 1934. Dawson, W. H., *Protection in Germany*, London, 1904. Weber, Adolph, *Handels-und Verkehrspolitik*, München, 1933. Kessler, W. C., "The New German Cartel Legislation," *American Economic Review*, XXIV, No. 8, September, 1934, pp. 477-82.

Verordnung of November, 1923. The first empowered the Minister of Economics to supervise certain aspects of the operation of cartels;⁷⁴ the second empowered the Ministers of Economics and Agriculture to combine all firms of certain industries into compulsory cartels when interests of the firms and of the public might be furthered.⁷⁵ These ministers could prohibit, for a certain length of time, establishment of new enterprises in particular industries, enlargement of existing plants, or could limit the production and regulate utilization of existing plants.⁷⁶ There were a number of reasons for these laws, namely, the desire to protect medium- and small-size producers from competition of larger firms, to conserve valuable natural resources that might be lost through over-investment, and to stimulate production of such materials as might enable Germany to attain self-sufficiency more rapidly. Both the agricultural and industrial organizations were effective instruments for realizing self-sufficiency.

During the period under consideration tariff rates were modified through new commercial treaties and supplements to old ones. In contrast to former most-favored-nation agreements, the new treaties were for a much shorter period of time, and loop-holes were left for emergency changes. The general tariff was often modified, and rates on bacon, lard, tallow, zinc, and zinc alloys, fruits, linseed oil, cellulose, typewriters, incandescent lamps, and other articles were increased.⁷⁷

By a law of April 4, 1933, the Minister of Economics was empowered, in case of economic emergency, to negotiate bilateral treaties with foreign countries.⁷⁸ Quotas became an accepted means of import protection with the passing of the *Gesetz zum Schutze der deutschen Warenausfuhr* on September 22, 1933. In settling import quotas for a given country, its treatment of German exports was a determining factor. Although Holland had first hotly resented Germany's quotas, an agreement negotiated May 10, 1933, gave remarkable scope to the quota idea. Agricultural products of Holland, notably cheese, bacon, eggs, and cabbages, were conceded duty reductions, but their import was greatly restricted. Holland could scarcely protest, for in the meantime the Dutch government had also made extensive use of quotas.⁷⁹ Later the Swiss were conceded tariff reductions and some quota increases. Both treaties were for short periods. The treaties here cited are typical of most negotiated. Details concerning all commercial agreements may be found in other sources.⁸⁰

⁷⁴*RGBl. I*, 1933, July 17, p. 487: "Gesetz ueber Aenderung der Kartellverordnung. Vom. 15. Juli, 1933."

⁷⁵*Ibid.*, July 17, p. 488: "Gesetz ueber Errichtung von Zwangskartellen. Vom. 15. Juli, 1933."

⁷⁶Kessler, W. C., *Ibid.*

⁷⁷Germany maintained a three-schedule tariff consisting of a general tariff, a super-tariff, and a tariff used in commercial treaties.

⁷⁸*RGBl. I*, 1933, April 5, p. 162: "Gesetz ueber die vorläufige Anwendung zweiseitige Wirtschaftsabkommen mit ausländischen Staaten. Vom 4. April, 1933."

⁷⁹*London Economist*, May 6, 1933, p. 964.

⁸⁰For further information concerning commercial treaties negotiated during 1933-1934, see DOOT, *Economic Conditions in Germany*, June, 1933, pp. 57 ff. and *ibid.*, June, 1934, pp. 37 ff.

Since raw materials were vital to the German economy, measures were adopted to insure an adequate supply of them. Devisen were so allocated and commercial policy was so directed that only essential raw materials were imported, domestic production of raw materials was encouraged, and utilization of raw materials was adjusted to their supply. Industrial revival in 1933 increased the demand for raw materials. Failure to satisfy the demand would have slowed the pace of recovery and rearmament. Import of raw materials was complicated by a lack of devisen and increasing world prices.

An important law of March 23, 1934, empowered the Minister of Economics to supervise the purchase, division, storage, sale, and use of industrial raw materials and semi-finished products.⁸¹ For this purpose Control Offices were set up for wool, cotton, bast fibers, non-ferrous metals, hides and skins, rubber, iron and steel, cotton yarn and cotton goods, industrial fats, carbon black, asbestos, tobacco, and cocoa. A *Gesetz über wirtschaftliche Massnahmen* of July 3, 1934, empowered the Minister of Economics, until September 30, 1934, to provide any measures necessary to further the welfare of the German economy.⁸² Should required measures fall within the jurisdiction of another ministry, measures were worked out in conjunction with the ministries involved. Before its expiration this law enabled the Minister of Economics to pass several measures of vital significance to German commercial policy.

Not even the transfer moratorium of 1933 was able to better permanently the balance of international payments and the state of German finances. By the summer of 1934 a full moratorium was imperative. At the same time, a new import policy was adopted, for imports had exceeded exports in the first quarter of 1934. New credits for the financing of imports were not forthcoming, and devisen quotas for importers were cut to 5 per cent of the base period allotment by July, 1934. At the same time, the Control Offices found it necessary to cut purchases of certain raw materials, and to supervise closely their processing, storage, and distribution. Cartels were formed, and investments were forbidden in order that capital might be saved and raw materials utilized more economically.

Employment of reimbursement credits, through which payments for imports might be effected were also limited. Clearing agreements offered one means of payment for goods, but, when commercial clearing debts began to accumulate, payments into clearing accounts were prohibited after June 11, 1934. June 23, 1934, it was decided that foreign exchange

⁸¹*RGBl. I*, 1934, March 24, p. 212: "Gesetz über den Verkehr mit industriellen Rohstoffen und Halbfabrikaten." In addition there were 10 *Durchführungsverordnungen* providing particulars for the establishment and operation of the *Ueberwachungsstellen*. See *ibid.*, pp. 228, 248, 249, 303, 340, 372, 396, 469, 528, 618, 801.

⁸²See also *RGBl. I*, 1934, July 4, p. 565, for the "Gesetz über die Anwendung wirtschaftlicher Vergeltungsmassnahmen gegenüber dem Ausland vom 3. Juli, 1934."

would be given importers only if sufficient devisen were already on hand to warrant the imports in question. Foreign-exchange quotas were finally abandoned, for two obvious reasons:⁸³

1. There was insufficient discrimination between essentials and non-essentials. A number of contracts of considerable size were still valid, and payments for the goods under contract had to be made regardless of their importance. The *Schweden-Klausel*⁸⁴ in some of the commercial agreements permitted a heavy influx of non-essentials.

2. Importers had no guarantee of sufficient devisen for their imports under day-to-day allocation of foreign exchange. Consequently, foreign sellers refused to deliver goods. There was lack of coordination between authorities granting permission for imports of certain goods, and authorities distributing devisen. Certain commodities were not subject to license while others were.

Under these circumstances, regulation of all imports according to definite plan was considered necessary. The basis for such a plan was outlined by Dr. Schacht at the opening of the Leipzig Fair, August 26, 1934. In September, 1934, the authority of the *Gesetz über wirtschaftliche Massnahmen* was employed to set in force laws furnishing the groundwork for a "New Plan." The first law was, in principle, a consolidation of raw material laws that had previously been in force.⁸⁵ Under it the *Ueberwachungsstellen* became legal entities subject to the Ministry of Economics, their duties defined, and their means of support briefed.

Under the authority of the *Verordnung über den Warenverkehr*, the Minister of Economics and the Minister of Food and Agriculture issued another decree establishing other *Ueberwachungsstellen* for other classes of commodities.⁸⁶ Certain boards already established were also designated as *Ueberwachungsstellen*. In all there were 25 Control Boards consisting of:

1. Eleven Control Boards already established under the *Gesetz über den Verkehr mit industriellen Rohstoffen und Halbfabrikaten* of March 23, 1934, for tobacco, industrial fats, wool and other animal hair, cotton, cotton yarn, bast fibers, hides and skins, rubber and asbestos, carbon black, non-precious metals, and iron and steel.

2. Four monopoly boards for grain, fodder, and other agricultural products; animals and animal products; mill products; oils, fats, and eggs.

⁸³Reuter, Dr. Franz, *Die Neuregelung des deutschen Aussenhandels*, p. 8. Miller, Douglas, Special Circular No. 400, *Department of Commerce*, October 6, 1934, "Germany's New System of Import Control Through Exchange Permits."

⁸⁴See the discussion regarding clearing agreements, p. 108.

⁸⁵RGBl. I, 1934, September 7, p. 817: "VO über den Warenverkehr." Vom 4. September, 1934.

⁸⁶*Deutsche Reichsanzeiger*, No. 209, September 4, 1934.

3. Ten control boards established by the new regulations for: wood; vegetables, fruit, beverages, and other foodstuffs; coal and salt; mineral oils; chemicals; silk, rayon, clothing and similar products; furs; paper; technical products; and miscellaneous products.⁸⁷

Subsequently additional boards were established for precious metals and clothing and related products. The latter was an offspring of the Board for Artificial Silk.⁸⁸

The "New Plan" was designed to adjust imports to exports in such a way that a *devisen* surplus for payments on international obligations might be acquired, and to discriminate between imports in favor of those necessary for rearmament, export industries, and sustenance of the population. All imports became subject to license. Only importers whose goods were approved by a competent *Ueberwachungsstelle* could be assured of obtaining *devisen*. Distinction could thus be made between essential and non-essential goods.

Four categories of *devisen* permits could be granted:⁸⁹

1. Permits for *Kassagegeschäfte* (Cash transactions) giving the right to acquire *devisen* or free *reichsmarks* which might be withdrawn at any time. Such permits were granted sparsely and generally to importers whose goods would be fabricated in Germany and re-exported.

2. Permits for use of outstanding credit lines under the *Standstill* arrangements (*Remboursekredite*). Consideration was given to the types of goods imported.

3. Permits enabling importers to get *devisen* upon the arrival of goods (if bought on forward shipment), or whenever a draft might fall due (if the goods were bought on several months' credit).

4. Permits giving right to make payment into clearing and special accounts.⁹⁰

At first, importation of goods for which *devisen* permits were not obtainable was not prohibited, but importers could get no assurance of obtaining *devisen* to pay for such goods. This tended to make foreign exporters wary. Nevertheless, a considerable influx of goods for which no *devisen* permits had been obtained made it necessary in June, 1935,⁹¹

⁸⁷With the exception of the control boards for cotton and tobacco in Bremen, and for furs in Leipzig, all boards were located in Berlin.

⁸⁸Each control board was directed by an appointee of the Minister of Economics or the Minister of Food and Agriculture. Commissioners in boards controlling industrial products were responsible to the Minister of Economics, in boards controlling agricultural products to the Minister of Food and Agriculture. Costs of the organization were met out of special fees amounting to a certain percentage of the *devisen* permits granted. Control Boards were to handle all payments due after September 23, 1934, whereas the *Reichsstelle für Devisenbewirtschaftung* retained authority over payments due before September 24.

⁸⁹Benning, B., "Der 'Neue Plan' und die Neuordnung der deutschen Aussenwirtschaft," *Jahrbücher für National-Oekonomie und Statistik*, Band 142, July-December, 1935, pp. 43-44.

⁹⁰In order to prevent a repetition of the stagnation which occurred in 1934 the whole system of clearing accounts was placed under the control of the Reichsbank.

⁹¹RGBl. I, 1935, July 24, p. 1046: "II. Durchführungsverordnung zum Gesetz über die Devisenbewirtschaftung."

to make all imports subject to license.⁹² Special permits could be obtained to pay transportation, insurance, and other costs of importing.

The Ministers of Economics, Finance, Food and Agriculture, and Forestry were empowered to encourage the production of raw materials,⁹³ and attempts were made to economize the materials on hand. The utilization of equipment and working hours were limited in industries fabricating foreign wool, cotton, hemp, hard fibres, and jute,⁹⁴ though later the quantity fabricated rather than the working time was regulated.⁹⁵ Government intervention prevented price increases or the release of employees in these industries. Processors and dealers were required to keep accurate records in order that the amount of raw materials on hand might be ascertained.⁹⁶ In some cases the mixture of artificial fibres with natural fibres could be required.⁹⁷

Guaranteeing of adequate supplies of raw materials was not only a matter of controlling imports and opening new sources. It was also necessary to organize producers and consumers so that no waste occurred. This meant the regulation of sales of vital raw materials. Since rising world prices stimulated the re-export of certain raw materials, the price of which was fixed on the domestic market, such re-export was prohibited by a law of November 9, 1935.⁹⁸

Intention to realize a greater degree of self-sufficiency was stated by Hitler at the *Parteitag* in Nuremburg in September, 1936. Though

⁹²According to a Special Circular issued by the Department of Commerce, applications for foreign-exchange certificates were filed with the appropriate import control board. If for the execution of one order a firm required imported materials falling within the jurisdiction of several control boards, it filed one application for all the materials with the control board to which the finished product was assigned. The firm then produced an affidavit to the effect that applications for the same materials had not been filed with other control boards. The control board receiving a "combined" application sent the applications covering individual materials to the respective boards for decision, and, ultimately, gave the applicant the individual certificates issued by the several control boards concerned. The purpose of this somewhat complicated procedure was to avoid having a firm obtain certificates for only part of the material required for a given order. A foreign-exchange certificate was issued only when the ultimate manufacturer or consumer of the imported material was designated. This was considered necessary, because only in this way was it possible to determine whether the material in question was indispensable, and also, whether duplicate applications had been filed simultaneously by the manufacturer (consumer) and the prospective importer. The government emphatically denied, however, any intention to encourage the manufacturer to make his purchases direct from the foreign supplier. As a matter of principle, the certificate was issued only in the name of an importer, on condition that the ultimate manufacturer or consumer was duly designated. Application could also be filed by a manufacturer; but in order to avoid speculative trading in foreign-exchange certificates, the manufacturer had to indicate the importer through whom he intended to import, and in whose name the certificate had to be made out. Certificates could be issued in the name of a manufacturer only when he could prove that he had been accustomed to purchase the goods directly from exporters in a foreign country and had made direct payment for them. Likewise, by way of exception, certificates could be issued to importers without designating the name of the manufacturer, in respect of commodities which the import trade had, as a rule, bought at its own risk and for its own account.

⁹³*RGBl.* I, 1934, December 22, p. 1253: "Gesetz über die Uebernahme von Garantien zum Ausbau der Rohstoffwirtschaft." Vom 13. Dez. 1934.

⁹⁴*Ibid.*, July 20, p. 713: "Die Faserstoffverordnung. Vom 19. Juli, 1934." Augmented by further measures to be found in *RGBl.* I, 1934, pp. 788, 818, 819, 983.

⁹⁵*RGBl.* I, 1935, December 7, p. 1411: "Spinnstoffgesetz. Vom 6. Dez. 1935."

⁹⁶*Ibid.*, June 26, p. 752: "VO über die Führung eines Wareneingangsbuchs. Vom. 20, June, 1935.

⁹⁷*Ibid.*, December 7, p. 1416: "VO über öffentliche Aufträge auf den Gebieten der Spinnstoff- und der Felle- und Häutewirtschaft. Vom. 26, October, 1935.

⁹⁸*Reichsanzeiger*, 1935, No. 265, November 9: "Verbot der Ausfuhr von Waren." The raw material list included mineral oils, copper, rubber, wool, cotton, etc.

at first plans were indefinite, a decree of October 18, 1936, gave General Göring unlimited authority to execute a "Four Year Plan" to make the Reich practically independent of foreign sources of such raw materials as could be produced in Germany. Any measurement of the success of the Four Year Plan in reducing the dependency of Germany upon imported raw materials must make allowance for the increased need for foreign materials between 1934 and 1940. Such a measurement is reserved for Chapter VII.

The occupation of Austria necessitated an extension of the German tariff and other trade and finance restrictions, as did the occupation of the Sudeten territories and the establishment of the protectorate over Bohemia-Moravia. At the same time such occupations removed the majority of restrictions on trade between Germany and the assimilated territories. New commercial agreements with countries which had dealt with the formerly independent territories became imperative. The new Reich Custom Law of March 20, 1939, comprehended changes which had occurred.⁹⁹

The modifications which the New Plan effected in general commercial policy will be discussed in the following chapter, for German commercial policy was directed at the stimulation of exports as well as at the discouragement of imports.

⁹⁹*RGBl.* I, March 20, 1939, p. 539. This Act replaced the old Act of 1867.

CHAPTER VI

EXPORT STIMULATION, 1930-1940

IMPORTANCE OF FOREIGN TRADE

AFTER THE WORLD WAR, Germany became increasingly dependent upon world markets as outlets for manufactured goods, and sources of raw materials and foodstuffs. Had Germany maintained her pre-war position as one of the world's greatest mature creditor nations, the fact that she had to import between 40 per cent and 50 per cent of industrial raw materials would have been of little significance. As a creditor nation, Germany could have enjoyed an import surplus; but as the world's largest debtor she was faced with the problem of maintaining an export surplus. Only by exports (in the absence of foreign borrowings) could Germany obtain necessary foodstuffs and raw materials.

Import restrictions and encouragement of domestic raw material production offered no complete solution to Germany's problem. Germany could not dispense with foreign raw materials and foodstuffs entirely without lowering the general standard of living. Furthermore, raw materials that were imported were vital to export industries. Substitution of domestic raw materials in export industries would have meant the manufacture of inferior goods—and inferior goods, at higher costs of production, would not permit Germany to hold her own on world markets. Export industries were extremely important, for they utilized a large share of materials imported, employed 1.4 million men directly or indirectly, and were vital to the general prosperity of Germany.¹

Despite many obstacles, German foreign trade recovered remarkably after 1924. By 1930, for reasons previously indicated, Germany enjoyed a sufficiently favorable balance of trade to meet foreign obligations. However, as the depression deepened, and trade restrictions grew, it became increasingly difficult to maintain exports. Domestic developments also affected exports adversely. Efforts to stimulate exports during the period 1930-1940 included:

1. Deflation.
2. Direct and indirect subsidization.
3. Utilization of blocked marks, repurchased dollar bonds, and scrip.
4. Clearing and compensation agreements and special arrangements for financing trade.

¹For an analysis of the significance of the export trade to German industry see Wagenführ, Rolf, "Die Bedeutung des Aussenmarktes für die deutsche Industriewirtschaft," *Sonderhefte des Instituts für Konjunkturforschung*, No. 41, Berlin, 1936.

DEFLATION AND CONTROLLED PRICES

It cannot be denied that normal forces from 1930 until the latter part of 1931 enabled Germany to maintain an export surplus. Withdrawal of foreign credits exercised a deflationary influence, as did the hoarding of domestic currency during the monetary crisis. This influence was accentuated when the German government raised the rediscount rate. However, restrictions placed upon withdrawal of funds from Germany did not allow the depressive influence caused by the withdrawal of funds to continue. Too strict a discount policy on the part of the Reichsbank might have resulted in business liquidations and economic collapse. Consequently, the discount rate was moderate.

After the fall of the English pound and allied currencies, there was increased need for bringing the mark into alignment to permit Germany to maintain her share of world trade. To have allowed the mark to depreciate would have resulted in few gains, for import costs would have increased and the foreign debt would have risen. The only other logical course at the time was deflation of prices within Germany.

A deliberate deflationary policy had been started early in 1930 when the government took steps to defeat the rigidity displayed by prices of certain goods, wage rates, interest rates, and rents.² A decree of July 26, 1930,³ contained a section on the "Prohibition of Uneconomic Price Agreements." This was supplemented by another decree of August 30, 1930. Both were aimed at cartel agreements which tended to hold the price of cartelized products up disproportionately while other prices fell. Toward the close of 1930 the Reich Economic Council recommended a compulsory reduction in prices of "branded articles."⁴

The First Emergency Decree of December 1, 1930,⁵ cut salaries of public officials, pensions, and other compensation payments, from February 1, 1931. Such measures were intended to help balance the budget but were also effective in bringing about deflation. A Second Emergency Decree of June 5, 1931,⁶ a Third of October 6, 1931,⁷ and a Fourth of December 8, 1931,⁸ brought further cuts in salaries, interest rates, social expenditures, and rents, and increased certain taxes. A Reich Commissioner for Price Control was appointed under the decree of December 8, 1931. January 16, 1931, it was decreed that agreements compelling

²Dalton, Brinley, and others: *Unbalanced Budgets, A Study of the Financial Crisis in Fifteen Countries*, pp. 102 ff.

³RGBl. I, 1930, July 28, "VO des Reichspräsidenten zur Behebung finanzieller und wirtschaftlicher Notstände."

⁴Dalton and Brinley, *op. cit.*, p. 103.

⁵RGBl. I, 1930, December 5: "VO des Reichspräsidenten zur Sicherung von Wirtschaft und Finanzen."

⁶*Ibid.*, 1931, June 6, p. 279: "II. VO des Reichspräsidenten zur Sicherung von Wirtschaft und Finanzen."

⁷*Ibid.*, October 7, p. 537: "III. VO des Reichspräsidenten zur Sicherung von Wirtschaft und Finanzen, und zur Bekämpfung politischer Ausschreitungen."

⁸*Ibid.*, December 9, p. 699: "IV. VO des Reichspräsidenten zur Sicherung von Wirtschaft und Finanzen, und zum Schutze des inneren Friedens."

dealers in certain commodities to demand fixed prices on resale to consumers were null and void if the fixed prices were not reduced at least 10 per cent as compared with July 1, 1930, and if the dealer were prevented by the agreement from granting to the consumer, in addition to this reduction, rebates which he was entitled to grant on July 1, 1930.⁹

Deflation was not only necessary to stimulate exports, but to bring consumption goods prices within the range of reduced incomes. In a short-lived campaign, the Reich Commissioner for Price Control, Dr. Goerdeler, attempted to bring all prices into harmony. However, tariffs maintained high prices for certain agricultural products, and cartels failed to bring their prices down to a level consistent with other prices.

Sound as Brüning's program of deflation was as a long run policy, its stringent measures were thoroughly unpopular. There was agitation for government spending to relieve unemployment, and cuts in government salaries and relief payments were hardly received graciously by those affected. A short time before he would have been able to carry through new measures Brüning was forced to resign (May 29, 1932). The unsettled reparations question affected the fall of Brüning.¹⁰ The Lausanne Conference, in removing reparations, lifted pressure on the mark exchange for a time, but afforded no permanent relief. Other obligations to foreigners remained, and the decreasing export balance made transfer increasingly difficult.

The Chancellors succeeding Brüning were less interested in deflation than in alleviating unemployment and stimulating business. Liberal credits, tax exemptions, and public works constituted a program the direct antithesis of deflation. Von Papen, Brüning's immediate follower in the Chancellorship, inaugurated a system of "Tax Vouchers" which amounted to tax exemption, with particular premiums going to industries which succeeded in increasing their laboring forces. Agriculture could also benefit from such tax reductions.¹¹ Expenditures for public works, which had already been made to some extent in 1930 and 1931 under Brüning, were increased under the von Papen, the Gereke, and the Reinhardt programs, in the latter half of 1932 and the early part of 1933.¹² These called for an expenditure of 143 million Rm in 1932, and 600 to 800 million Rm annually from 1933 through 1938. Grants were made for a

⁹Dalton and Brinley, *op. cit.*, p. 103. For details of the decree see *RGBl.* I, 1931, January 26, p. 12: "VO über Preisbindungen für Markenwaren."

¹⁰Wheeler-Bennett, *op. cit.*, p. 192, "The fact that definite action by the European Powers in the matter of reparations had been postponed materially contributed to Dr. Brüning's defeat, since he had nothing to offer the German people in return for the continually increasing burden of taxation and economies which he was compelled to place upon them. These burdens, bringing with them discontent and despair, provided ample grist for the Nazi mills."

¹¹For details of the system of tax vouchers see Dalton and Brinley, *op. cit.*, pp. 112 ff.

¹²For details see *ibid.*, Chapter VI, "Public Works Policy." As early as July 11, 1927, a plan for "Productive Unemployment Relief" in the form of public works had been outlined. This operated until August 1, 1930, when the *Deutsche Gesellschaft für öffentliche Arbeiten A.G.* was formed. With this new company, relief work expenditures could be adjusted to meet seasonal demand for labor, and the borrowers were able to work out their plans beforehand, knowing to what extent they could depend upon public funds. Between January 1, 1929, and March 31, 1932, an aggregate sum of 479.4 million marks was devoted from all sources to Productive Unemployment Relief.

Compulsory Labor Service program which also required an expansion of credit.¹³

Both deflation and currency devaluation were out of the question after January, 1933. The National Socialists were barely in office before they began a vigorous program to stimulate business and relieve unemployment. Rather than permit the mark to depreciate on the international exchanges, they removed pressure upon the mark by declaring a moratorium, effective from July 1, 1933.

A law of June 1, 1933, provided the basis for Hitler's battle against unemployment.¹⁴ Since this battle was based on credit expansion through the issue of *Arbeitsschatzanweisungen* (Work Treasury Certificates), prices tended to rise. For a discussion of the various phases of Germany's re-employment program, the reader is referred to other sources.¹⁵ Suffice it to say that the re-employment program, coupled with heavy expenditures for rearmaments, development of German self-sufficiency and reorganization of German agriculture, all involved an inflation that jeopardized Germany's export possibilities. With the revival of German industry through government orders for armaments and other materials, there came an increased need for foreign raw materials. The possibility of cutting imports was decidedly limited if domestic recovery was to be maintained. The course finally taken was noted in the previous chapter in the discussion of the "New Plan."

Though some efforts were made under National Socialist guidance to prevent price increases, the primary intention was to prevent living costs from increasing too greatly, and to bring about an equitable adjustment between prices of various commodities and classes of commodities. Naturally, the holding of prices at a low level was not detrimental to exports. Controlling of the wages under the "German Labor Front" was also an effective means of preventing costs of production from rising and was thus a means of keeping prices low—at the expense of the laboring class.¹⁶ An executive order of May 16, 1934, prohibited the increase of prices without special permission¹⁷ and by an act of November 5, 1934,¹⁸

¹³Judging from National Socialist literature one might gain the impression that Labor Service was a peculiar product of the NSDAP. This it was not. A number of voluntary labor camps had even been in existence for a number of years prior to the formal organization under the Emergency Decree of June 5, 1931, at which time it was placed in the hands of the Federal Unemployment Insurance Board. Changes were made in the scheme by a Decree of July 16, 1932. Later, under the National Socialist regime, Labor Service was made compulsory, though curiously enough it retained the title, *Freiwilliger Arbeitsdienst*.

¹⁴RGBl. I, 1933, June 2, p. 323: "Gesetz zur Verminderung der Arbeitslosigkeit." For details of these see Dalton and Brinley, *op. cit.*, Chapter VI.

¹⁵Ermarth, Fritz, *The New Germany, N.S. Government in Theory and in Practice*, Washington, 1936. DOOT, *Economic Conditions in Germany*, March, 1936. *Wochenbericht des Instituts für Konjunkturforschung*, Sondernummer of March 21, 1936, pp. 2-5.

¹⁶Under National Socialism all labor unions, many of which had had party affiliations, were disbanded and the entire laboring force of Germany came under the supervision of the *Deutsche Arbeitsfront*. For a discussion of the German Labor Front see Ermarth, *op. cit.*

¹⁷RGBl. I, 1934, May 17, p. 389: "Verordnung gegen Preissteigerungen."

¹⁸*Ibid.*, November 5, 1934, p. 1085: "Gesetz über Bestellung eines Reichskommissars für Preisüberwachung." This Commissar was to carry out the duties of price regulation etc. which

a special Price Commissioner was appointed whose duties involved not only regulation of prices, but improvement of means for distributing goods.

Later, as a part of the Four Year Plan, a Commissioner for Price Formation, Herr Wagner, was appointed, and empowered with supervision of all prices. Herr Wagner issued a Price Stop Decree on November 26, 1936, prohibiting price increases above the level of October 17, 1936, without consent.

The fact that Germany was not wholly separated from the world economy made the matter of price control difficult, for after 1934 rising world prices got increasingly out of line with domestic prices. Thus the tendency was to re-export certain commodities previously imported into Germany. This, however, was contrary to the function of the Four Year Plan. The absorption of territories which had been more closely linked to the world economy occasioned further problems of adjustment.

Since mark devaluation and internal price deflation were out of the question so far as Germany was concerned, other means had to be sought for the stimulation of the export trade. In this connection various means of subsidization for exports may be considered.

EXPORT STIMULATION THROUGH SUBSIDIZATION

It is difficult to tell where subsidization of export trade begins, for in the last analysis, any encouragement to exports is subsidization. More obvious forms of subsidization include tariff concessions on imported raw materials used in the manufacture of goods for export, cheap credit and special financing, low transportation rates, tax exemptions, export premiums, export insurance, and the provision of special information through governmental agencies.

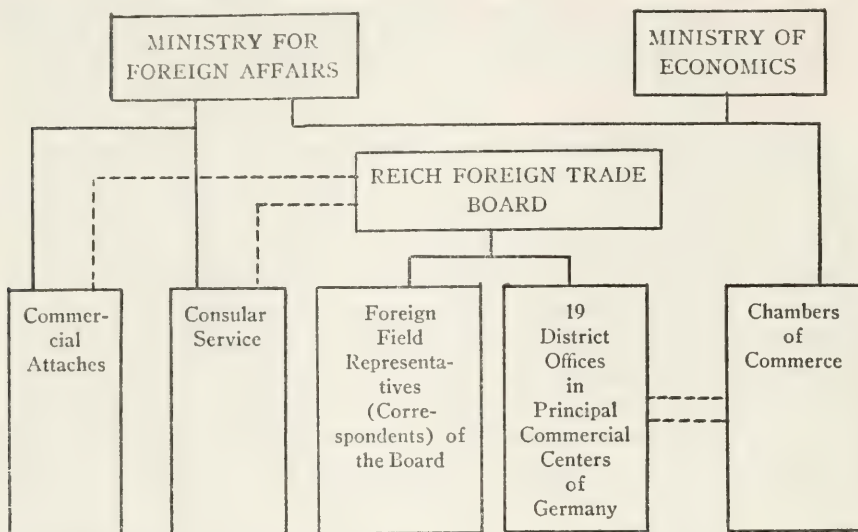
The *Reichsstelle für Aussenhandel* (Reich Foreign Trade Board) plays a significant role as an educational and informational institution. Table 8 reveals that the Foreign Trade Board is a coordinating instrument between the Ministry of Foreign Affairs and the Ministry of Economics. In matters involving foreign countries, the Foreign Office is always consulted, no matter which department receives inquiries. Commercial treaties fall within the province of the Ministry of Foreign Affairs.¹⁹ The information service division (*Nachrichtendienst*) of the Foreign Trade Board issues bulletins and special publications, the official economic organ of the Board being the daily *Eildienst für Aussenhandel und Auslandswirtschaft*. The consular service, commercial attaches, and

had been imposed upon the Minister of Economics and the Minister of Food and Agriculture by a previous law of July 15, 1933. (See *RGBl. I*, 1933, July 17, p. 490: "Gesetz über die Übertragung der Aufgaben und Befugnisse des Reichskommissars für Preisüberwachung.") His duties in this respect were to end July 1, 1935.

¹⁹Stuart, C. E., *European Conditions in Their Relationship to International Trade and Export Credits*, p. 33.

chambers of commerce are direct and indirect sources of information for the Board.²⁰

TABLE 8.—ORGANIZATION OF GERMAN FOREIGN TRADE



Source: Stuart, C. E., *European Conditions in Their Relationship to International Trade and Export Credits*, p. 48.

German foreign trade has long been encouraged through a number of public and private offices. A law of October 20, 1933,²¹ gave legal status to various types of foreign trade stimulation formerly connected with the state only in limited respects. A new organization was constructed over the *Zentralstelle für Aussenhandel*, and the *Aussenhandelsstellen* which were already in existence in various parts of Germany. The former *Zentralstelle* became the *Reichsstelle für Aussenhandel*, mentioned above. At the same time an *Aussenhandelsrat* (Foreign Trade Council) was created, consisting of the most important personages in international trade. Appointments were limited to fifteen, and the Minister of the Exterior and the Minister of Economics were empowered to nominate candidates.²²

Export Credit Insurance, long important to German export trade, provided protection for exporters against:²³

²⁰For a discussion of the significance of the Foreign Trade Board consult Heft 8 of the series "Betriebswirtschaftspraxis und Betriebswirtschaftslehre," *Neue Wege zum Aussenhandel*, Berlin, 1936. See also Brech, John, "Auslandspropaganda und Exportförderung," *Wirtschaftsdienst*, XVIII, Heft 38, September 22, 1933, p. 1300, and Emmerich, Walter, "Rahmenplanung für den deutschen Ueberseexport," *ibid.*, Heft 35, September 1, 1933, p. 1200; also *ibid.*, Heft 36, September 8, 1933, p. 1235.

²¹RGBl. I, 1933, October 19, p. 743: "Gesetz über Massnahmen zur Förderung des Aussenhandels."

²²*Wirtschaftsdienst*, XVIII, Heft 43, October 27, 1933, p. 1488.

²³Stuart, *op. cit.*, p. 101.

1. Inability of clients to pay because of bankruptcies, adjustments either in or out of court, liquidation adjustments, or fruitless seizure.
2. Impossibility of collecting claims because of governmental or other measures regulating currency or foreign exchange.

According to Stuart, export credit insurance in Germany was promoted principally by the Hermes Credit Insurance Bank in cooperation with the German government. In 1926 Hermes made an agreement with the German government concerning the issuance of export credit insurance whereby the coverage of the risks incident to exports of German commodities was divided between the government and Hermes.²⁴ The uncertainties of trade during 1931 and 1932 subjected the Hermes Company to operating losses and it became necessary to work out a new agreement, effective January 1, 1933, whereby the private insurance concern bore only a small part of the risk, although it continued to make available its fund of information and experience.²⁵ For all practical purposes the government really took over insurance of international trade. Policies could be obtained from the Hermes Company in the form of individual invoice insurance, individual revolving credit insurance, export blanket insurance, export insurance for long-term credits, export lump sum insurance, and insurance for large equipment orders.²⁶ Exports to certain risky countries required larger premiums. In special cases, as for example, exports to Russia, the Hermes Company issued a Federal Export Guarantee, as agent of the Reich. In all cases the exporter was required to bear a certain percentage of the risk to retain some interest in the transaction and the foreign customer.²⁷ The German government still guarantees directly certain export transactions, usually through the Golddiskontbank. Such guarantees do not ordinarily cover more than 40 per cent of any individual order.

It was decided to reorganize German export credit insurance in 1934, and a statement was issued that, if export transactions gave evidence of increasing employment, greater risks would be covered in policies.²⁸ As international business conditions improved in 1935, coverage for exports to most countries was raised from 50 per cent or 60 per cent to 66 per cent of the invoice value. At the same time, German exporters were cautioned against shipping goods to foreign buyers who were obviously poor credit risks.²⁹

Various devices were used to foster trade with certain countries. During 1929 Russo-German trade progressed with difficulty, for Germans

²⁴*Ibid.*

²⁵Simm, Carl, "Die Neugestaltung der Ausfuhrkreditversicherung," *Wirtschaftsdienst*, January 12, 1934, p. 44.

²⁶*Ibid.*, pp. 101-111.

²⁷*Ibid.*

²⁸DOOT, *Economic Conditions in Germany*, June, 1934, p. 112.

²⁹*Ibid.*, March, 1936, p. 158.

were dissatisfied with Russian demands for longer credits, administrative difficulties of commercial transactions, travel, patents, reluctance of Russians to buy German goods, and progressive efforts to dump Russian products in Germany.³⁰ In 1930 German exports to Russia increased sharply, largely as the result of government encouragement in the form of 350 million Rm fund to facilitate German export trade during the financial year April, 1930-April, 1931, through export guarantees. Of the total, 122.4 million Rm were employed in trade with Russia during 1930. At the same time, the Golddiskontbank announced its readiness to finance exports to countries not able to get credits in London, namely, those in southeast Europe and Russia.³¹ Risky though financing of exports to these countries seemed, possibilities of stimulating the export industries and maintaining employment motivated the government.

During 1930-1931 it was estimated that the Golddiskontbank advanced about 200 million Rm for Russian business, and other German banks about 11 million Rm to fulfill orders of older dates.³² In 1931-1932 the German government assisted directly exporters who complained that they had to bear abnormal foreign exchange risks because of the restrictions in foreign countries, and the necessity of surrendering devisen earned through exports directly to the Reichsbank. The Reichsbank was able to render assistance through the discounting of exporter's drafts on foreign buyers at the ordinary bank rate. At the same time, the government attempted to liquidate accounts blocked in foreign countries through clearing arrangements. After June, 1932, exporters with accounts frozen abroad could secure Reichsbank advances up to 50 per cent of amounts involved.

Exports to Russia were facilitated by negotiations in 1931 between the Soviet Union and a committee of German industrialists. Credits granted by Germany had varied in time of maturity from 9 to 24 months, and, under an agreement early in 1931, credits were granted repayable in three groups, in 9, 24, and 33 months respectively.³³ Since the Russian bills had been acceptable to banks only at a discount of from 25 per cent to 30 per cent, exporting firms had been forced to keep their own portfolios until the Golddiskontbank came to their aid.³⁴ Imports from Russia during the succeeding years liquidated these commercial advances.

Arrangements were again made in 1935 with the Russian Trade

³⁰DOOT, *Economic Conditions in Germany*, July 1930.

³¹For an analysis of the contemplated effects of the German government's policy of financing exports see Dr. Walter Schück, "Exportförderung und Binnenmarkt," *Die Bank*, Band, 47, Heft 8, February 21, 1931, p. 245.

³²DOOT, *Economic Conditions in Germany*, September, 1931, p. 57. Since export trade declined rapidly in 1932-1933, export credits granted by the Golddiskontbank fell from 355 million Rm at the end of 1931 to 212 million Rm at the end of 1932. The decrease was mainly accounted for by the fall in the number of Russian bills presented. See *ibid.*, June, 1933, p. 57.

³³*London Economist*, April 25, 1931, p. 894.

³⁴*Ibid.*, February 7, 1931, p. 346.

Mission for supplementary purchases in Germany for which payment was to be made in German bank credit, the period of credit extended being up to 28 months with interest 2 per cent above the Reichsbank discount rate. Agreements were also made for imports from Russia to cover old trade debts.³⁵ Thus, despite differences on the political front, trade between Germany and Russia was not handicapped.

An Economic Agreement of April 9, 1935, granted a 200 million Rm credit to Russia for five years and arranged for a settlement of old debts, and a Trade and Credit Agreement with Russia on August 19, 1939, resulted in the granting of another 200 million Rm credit. The latter symbolized an economic and political rapprochement for Germany and Russia, marked the end of tension between them, and upset certain calculations of the British. Russian deliveries to Germany were fixed at 180 million Rm for the two following years.

The 1935 agreement with Russia had not come up to expectations, because the realization of the first Five Year Plan decreased Russian import needs. Then, too, certain materials which were needed by Russia could be supplied by Germany only at the expense of German rearmament and the Four Year Plan. Such complications could arise in the 1939 treaty with Russia. Because of economic losses suffered in the Russo-Finnish war, Russian deliveries, upon which the Germans base hopes, may not be fulfilled.

Political maneuvering in the various Balkan countries also resulted in the granting of certain credits by Germans which also stimulated exports. In 1938 Dr. Funk negotiated an agreement with Turkey whereby 150 million Rm were to be made available for military and industrial purposes, and in March, 1939, a credit of 120 million zlotys was advanced to Poland to stimulate German exports.

German credits or sales on the installment plan to countries with whom clearing agreements had been negotiated often placed the burden of carrying the credits on foreign banks. Thus, for example, a German industrial firm selling industrial equipment to a foreign country would willingly grant a long-term credit. With the export of the industrial equipment, an equivalent value of raw materials could be brought into Germany. German importers paid Rm into clearing accounts. German exporters collected these. Foreign exporters on the other hand, collected sums only as they were paid in, over a period of time, by the foreign importer.

Throughout the period under consideration concessions were made to exporters in the form of reduced transportation rates for all sorts of

³⁵For details of the Russo-German Agreement see *London Economist*, April 13, 1935, p. 850; April 20, 1935, p. 902.

goods.³⁶ Certain industries received tax exemptions. Direct bounties were also granted, the most interesting of which was introduced in 1935, under the influence of Dr. Schacht, to fortify the policy of subsidizing additional exports through blocked marks. A law of June 28, 1935, provided for the imposition of levies on groups or associations of business men and business concerns, to be collected through the local Chambers of Commerce, Chambers of Industry, Chambers of Handwork, and other business associations existing in public law.³⁷

However, prior to the passing of the law, the press confirmed a report that Dr. Schacht had obtained from industry a sum of 720 million Rm to subsidize the exports. There was no available evidence of how the fund was distributed, or the extent to which price cutting was made possible, for firms did not dare publish particulars nor show the items in their balance sheets. The average subsidy for all exports was estimated to be about 25 per cent. Since many goods did not come within the scope of the arrangement, the subsidy, on specific commodities, could have been between 30 per cent and 35 per cent.

"ADDITIONAL EXPORTS"

Although the "official mark" registered no depreciation, a "black bourse" developed abroad where marks smuggled over the border, as well as those held in blocked accounts within Germany, were quoted at a discount.

To discourage the flight of German bank notes and coin, their export by nationals and foreigners was prohibited. Currency returning to Germany had to be paid into blocked accounts, if such payments were made in favor of foreigners, and were released only for specific purposes.³⁸ German bank notes smuggled into the country could easily be used to finance goods for exports which rendered no devisen.

Short-term credits to Germany outside the Standstill arrangements and claims at German banks, though transferable with permission upon maturity, were generally paid into blocked accounts. From these *Sperrkonten* they could be withdrawn for specified long-term investments, or for purchase of commodities for export, providing they were used with a certain percentage of devisen or free marks. After July, 1931, an open market for sperrmarks developed in most important foreign financial centers and they were purchased to make part payment upon

³⁶DOOT, *Economic Conditions in Germany*, September, 1932, p. 148; March, 1936, p. 193.

³⁷RGBl. I, 1935, June 29, 1935: "Gesetz über Erhebung von Umlagen in der gewerblichen Wirtschaft." See also *London Economist*, May 11, 1935, p. 1069; June 1, 1935, p. 1246; July 6, 1935, p. 13. The law was worded obscurely and the uninformed reader could be led to believe that it provided for the collection of unimportant dues for industrial reorganization.

³⁸For a discussion of the uses to which the mark notes paid into *Notensperrkonten* might be used consult, Koeli, Walter, *Auslandsforderungen in Deutschland*, p. 25.

German goods. Since they could be purchased at a discount, some encouragement was given herewith for German exports. After the Standstill Agreement of 1933, portions of the Standstill credits not transferred were paid into special registers from which they derived the title "registered marks." These, too, might be used in part for export. At the same time, part of the sums due foreigners were liquidated. Changes effected in the use of sperrmarks and registered marks for exports after the transfer moratorium July 1, 1933, will be noted shortly.

In most cases German traders from whom goods were purchased with blocked and registered marks had to prove that goods would not otherwise have been sold, had purchasers not been permitted to employ blocked accounts. Usually only part payment could be made in blocked marks. Exports made possible only through sales of blocked marks at reduced prices were called "additional exports."

Repatriation of German sterling and dollar bonds, quoted on foreign markets at a much lower figure than on the German bourse, furnished another means of stimulating additional exports. Foreign creditors took the initiative in the use of sperrmarks, for they attempted to sell blocked funds to foreign importers desiring German goods. However, in repurchases of dollar and sterling bonds, German exporters took the initiative. If they could prove that they could make sales on foreign markets only at a loss, they were given permission to use *devisen* gained from foreign sales to repurchase the aforementioned securities.³⁹ These were resold in Germany at the prevailing price. Out of the gain the exporters were able to compensate for losses. Any net losses on these transactions occasioned by fluctuating bond and *devisen* values were borne by the exporters.⁴⁰

The United States protested that the above and other additional export policies constituted dumping and attempted countervailing duties. Germans maintained that goods were not dumped, but offered at prevailing prices, though sales at those prices represented a loss to German exporters, who then resorted to the dollar-bond-repurchase procedure to make up losses.

Germany was charged with taking *devisen* out of the Reichsbank reserve to facilitate the repurchase of sterling and dollar bonds, even when no additional exports were involved. This seemed a deliberate breach of faith and violation of the rights of foreign creditors to whom full payments were due. Had Germany made payments on foreign obligations by the same *devisen*, more of the total debt would have been retired. Prior to July 1, 1933, payments on interest and amortization of

³⁹The *devisen* were entrusted to a bank which acted as an agent in the purchase.

⁴⁰Bargen, Dr. Franz, "Exportfinanzierung über Dollarbonds," *Wirtschaftsdienst*, September 15, 1933, p. 1269.

the long-term debts had been met in full. The German answer to the charges brought by the United States and England has already been indicated.⁴¹

Under the moratorium understanding, interest on the Dawes and Young Loans was to be paid in full, whereas only 50 per cent of interest on all other long- and medium-term debts (up to 4 per cent annually) was to be paid. The remaining 50 per cent interest was to be paid in "scrips" which were purchased by the Golddiskontbank whenever it had funds available, at a discount of 50 per cent. Thus by receiving 50 per cent in devisen, and by discounting the scrips at 50 per cent, the foreign creditor received 75 per cent of the total interest payments due him. Under subsequent arrangements foreign creditors, save the Swiss and the Dutch, were to receive 30 per cent cash transfers and 70 per cent transfer of interest in scrips, these being discountable at the Golddiskontbank at a guaranteed price of 67 per cent. This made it possible for creditors to get 76.9 per cent of their total interest as compared with a former 75 per cent.⁴²

Scrips furnished the basis for an extension of the additional exports program. For a time the use of scrips could not be reconciled with the use of registered and sperrmarks, for the former were quoted at discounts of about 22 per cent in July, 1933, whereas the new scrips were subject to a discount of 50 per cent. An adjustment was finally effected whereby a greater proportion of registered and sperrmarks might be used in the additional export transaction (i.e., a greater share per individual transaction.)⁴³

One disadvantage in using sperrmarks and registered marks for additional exports was the difficulty of bringing together owners of blocked accounts and foreign merchants who wanted to make purchases from Germany.⁴⁴ Under new regulations it became impossible to use registered marks and sperrmarks for additional exports, save in certain cases where these blocked marks were transferred to the *Konversionskasse* and used along with scrips. The Golddiskontbank then became the center of the additional export program.⁴⁵

Though foreign creditors had formerly disposed of blocked accounts to foreign importers of German goods who then obtained permission to use the marks for the purchase of German commodities, a new arrangement placed the initiative on the German exporter. With the proceeds from foreign sales the German exporter was permitted to buy scrips or sums in blocked accounts at a discount of about 55 per cent. These were

⁴¹See Chapter IV, p. 56.

⁴²See pp. 54 ff.

⁴³*London Economist*, July 8, 1933, p. 73.

⁴⁴*Wirtschaftsdienst*, August 25, 1933, p. 1181.

⁴⁵*London Economist*, October 7, 1933, p. 671.

then discounted in full at the *Konversionskasse*.⁴⁶ In every case the German exporter had to have permission from a competent *Devisenstelle* to which he had to prove that the export in question was "additional" in character.⁴⁷ No single exporting business was allowed more scrips than would enable it to lower prices by 20 per cent on the average.⁴⁸ The use of German dollar bonds in the additional export procedure remained unchanged, though after June 30, 1934, the bond system was limited to export transactions whose period exceeded twelve months. For transactions where full export proceeds were obtained in less than 12 months the scrip system was applied.⁴⁹ In the period July-November, 1933, German exports amounted to 2069 million Rm. According to official reports from the Reichsbank around 400 million Rm of this was accounted for by the additional export process.⁵⁰

The Golddiskontbank was made the sole buyer and seller of blocked marks. However, an open market for registered marks in foreign centers remained.⁵¹

After the 1934 moratorium, and arrangements for transfer under the funding-bonds plan, scrips were no longer issued. In September the Golddiskontbank withdrew its offer to purchase bond scrips at 67 per cent of the nominal price, but announced that it would be willing to purchase scrips later if *devisen* were available. In August, 1934, outstanding scrips of the Conversions Office amounted to about 23 million Rm. This figure does not include scrips for the first half of 1934 which were not issued. During 1935 the government found a substitute for the scrips—additional-export procedure in the direct subsidy of exports.

On the average, the additional export procedure provided a subsidy amounting to about 25 per cent of the selling price.⁵² Advantages which foreign countries had gained from currency depreciation amounted to about 30 per cent on the average.

THE NEW COMMERCIAL POLICY: CLEARING AND COMPENSATION

The part which clearing and compensation play in international economic relations is not clearly defined. In one sense, they aid the *devisen* control system, for they economize *devisen* and prevent pressure upon

⁴⁶The formula for reckoning the amount of scrip marks required to make up whatever loss a German exporter might incur in sending goods abroad to compete at the prevailing foreign prices was: 100 times the loss to be covered, over, the discount of the scrip. DOOT, *Economic Conditions in Germany*, June, 1934, p. 37.

⁴⁷Bargen, Franz, "Die Neuordnung des Zusatzausfuhrverfahrens," *Wirtschaftsdienst*, October 6, 1933, p. 1364.

⁴⁸*London Economist*, October 7, 1933, p. 671.

⁴⁹*Weekly Report of the German Institute for Business Research*, September 12, 1934.

⁵⁰Bargen, Franz, "Umbau des Zusatzexportverfahrens," *Wirtschaftsdienst*, XIX, Heft 16, April 20, 1934, p. 534.

⁵¹*London Economist*, October 7, 1933, p. 654.

⁵²*Weekly Report of the German Institute for Business Research*, September 12, 1934.

exchanges, and in another they are measures of import control. In a third sense, they are means of controlling and encouraging exports—particularly when all other means fail.⁵³ It was their capacity to serve in all of these functions which made clearing and compensation a vital part of the "New Plan."

Compensation refers to the direct international exchange of goods for goods. Transactions are pure barter and only small differences are paid in cash.⁵⁴ Various forms of compensation will be indicated shortly. Clearing consists of payments by nationals (of each country party to an agreement) of sums due for imports into special accounts of central banks of the respective countries. Claims arising from exports between the two countries are then settled out of these accounts. Though various agreements have been called clearing, there are, in reality, but two types of clearing agreements, the aforementioned, and compulsory transfer agreements. Transfer agreements may take three forms:

1. Exchange Agreements, under which one country agrees to make payment for imports from the other in its own currency into accounts at the central bank, and foreigners buying goods are encouraged to use the funds therein.⁵⁵

2. Forced Clearing, wherein one country impounds funds due another to collect commercial debts, interest and amortization on loans, etc.

3. Payments Agreements, like the English Payments Agreements, in which the clearing arrangements may be dispensed with altogether.

It is still a matter for conjecture whether clearing agreements as a whole have tended to cut down the total volume of world trade, or whether they have enabled countries of the world to maintain some trade despite the many restrictions. A report of the League of Nations was an indictment against the system of clearing agreements. Paul Einzig, however, defended clearing on the ground that it permitted the maintenance of a volume of trading that might have been impossible otherwise, attacked the report of the League of Nations rather vigorously, and called attention to many of the inconsistencies of the report.⁵⁶ The differences of opinion reflected the method of approach taken by the League and Einzig. The former judged clearing while holding an ideal of free

⁵³Greif, W., *op. cit.*, p. 48.

⁵⁴For details see Einzig, *The Exchange Clearing System*, pp. 191, 192.

⁵⁵The *Sondermark* agreement with England furnishes an example of this kind. Most exchange agreements are gradually changed into exchange clearing agreements.

⁵⁶According to Einzig, *op. cit.*, "It was not until the publication of the League of Nations report on exchange clearing that the system became the focus of uncompromising attention on the part of orthodox economists. Indeed, the League report supplies them with ample ammunition for their attack. Every section of the report disclosed a feeling of uncompromising hostility towards the exchange clearing system. Evidently, the Committee was inspired by a strong dislike of the idea of interference with the free movement of trade and exchange. It is solely from this point of view that the system was examined. There is no trace in the report of any investigation of the possibilities of improving world conditions by means of exchange clearing, or of any effort to remedy the technical defects of the system, so as to reduce the inconveniences caused by its application. The report viewed exchange clearing purely from the point of view of *laissez-faire* doctrinaires, who condemn government intervention as a matter of principle even when it has practical advantages."

and unhampered trade; the latter viewed clearing as a practical means of meeting an immediate problem. The use to which Germany put clearing in solving pressing problems is indicated in the following analysis of the development of exchange clearing.

Exchange clearing is not new. It was discussed in 1912 at the International Economic Union Congress in Brussels. The Reichsbank attempted to open clearing accounts with many central banks after the World War. Though funds could be transferred into and out of Germany without necessitating the purchase or sale of devisen, few other central banks followed the Reichsbank's example.⁵⁷

With the world depression after 1929-1930 clearing came to serve an international economic purpose.⁵⁸ October 12, 1931, the Board of Directors of the Bank for International Settlements authorized the bank management to discuss the existing foreign exchange regulations and practices with the various European central bankers. As a consequence of a conference held in Prague in November, 1931, clearing agreements were introduced December 10, 1931, between Switzerland and Austria and Hungary.⁵⁹ Other central European countries adopted the system, and in April, 1932, Germany introduced clearing agreements with Austria and Hungary to collect trade debts. Austrian exporters who had debts due in German currency for deliveries to Germany could receive payment from the schilling credits which had accumulated in Austria in favor of Germany.⁶⁰ Payments for Hungarian exports to Germany could be made into a special account of the Hungarian National Bank at the Reichsbank. The latter could use sums paid into the special account for the settlement of claims arising out of deliveries of German goods. A number of other agreements were made in 1932-1933 with Denmark, the southeastern European States, Czechoslovakia, Esthonia, and Lithuania.

In contrast to clearing arrangements with these countries were the arrangements with certain of the western European states, the Scandinavian countries, Italy, and Switzerland, which ordinarily bought more goods from Germany than they sold to her, and were in a position to inaugurate forced clearing.⁶¹ While the agreements with the first group of countries were generally clearing agreements, or *Bankenabkommen*, the latter were called Payments Agreements, or *Staatenabkommen*. *Bankenabkommen* were known as the "Eastern Type," and *Staatenabkommen* as the "Western Type."

⁵⁷Einzig, *op. cit.*, p. 56.

⁵⁸Greif, W., *op. cit.*

⁵⁹For a discussion of the success of these agreements see Lansburgh, A., "Devisen-Clearing," *Die Bank*, I, February 3, 1932, p. 151.

⁶⁰DOOT, *Economic Conditions in Germany*, September, 1932, p. 67.

⁶¹For details of the clearing habits and control mechanisms of various European countries see Heuser, Heinrich, *Control of International Trade*.

Payments agreements permitted utilization of *devisen* up to certain amounts as if there were no provisions to the contrary. Beyond the specified sum reichsmarks were paid into the Reichsbank to the account of the foreign central bank or some other agency. These amounts were used to compensate the German exporters.⁶² To prevent greater imports from payment-agreement countries than the balance of payments would permit, a special *Schweden-Klausel* (Sweden-Clause) was inserted in most of these treaties.⁶³ This provided that ordinary trade relationships were not to be altered greatly and that the ratio of exports to imports was to remain as it had previously been—in most cases in Germany's favor. *Devisen* were granted for payment to the foreign exporters within quotas ordinarily allowed, and payments for imports beyond this sum were made into the above-mentioned special accounts.⁶⁴

Total German claims frozen in eastern and southeastern Europe amounted to about 200 million Rm, and were liquidated gradually through the clearing agreements.⁶⁵ Though for a time an aid in maintaining the former export-import relationship with countries with whom Germany had a favorable balance of trade, the *Staatenabkommen* failed eventually to encourage exports in the same degree as imports.

Because of internal and external factors previously noted, the German balance of trade became less active throughout 1933 and the early months of 1934. *Devisen* quotas were cut, and fewer acceptance credits were available. Certain essential raw materials not obtainable from payment-agreement countries were desired. Therefore, on June 9, 1934, it was necessary to terminate "Sweden-Clause" agreements with Sweden, Norway, Finland, Belgium, Spain, France, Portugal, Italy, Switzerland, and Holland.⁶⁶ Where credits had accumulated in favor of the foreign country in Germany, new means had to be found to liquidate such claims.

By 1934 foreign creditor countries which were creditors to Germany attempted to secure payment on both capital and commercial accounts, through forced clearing. Under forced clearing Germany could not have realized *devisen* from exports to creditor countries until debts were settled. Since Germany needed raw materials, she could not risk forced clearings. A policy was needed wherein *devisen* economy and commercial policy complemented each other. The "New Plan" provided the basis for this policy with its theory of not buying more than could be paid for and of buying all essentials first.

All the payments agreements cancelled on June 9, 1934, were sub-

⁶²For a thorough discussion of this material see Bissinger, *Der Deutsche Handel*, pp. 255 ff.

⁶³This was so designated because it was first introduced in the protocol with Sweden on September 19, 1932.

⁶⁴For a comparison of the Eastern and Western Agreements see Greif, *op. cit.*, pp. 40 ff.; Gross, Herbert, "Ausgangspunkte, Formen, und Wirkungen der Devisenzwangswirtschaft," *Archiv für Sozialwissenschaft und Sozialpolitik*, v. 69, 1933, pp. 66-70.

⁶⁵*Ibid.*

⁶⁶*Wirtschaftsdienst*, June 15, 1934, p. 823.

stituted by government exchange clearing agreements. Clearing agreements with eastern and southeastern European countries required no changes, save that accounts were later transferred from the Reichsbank to the *Verrechnungskasse* which was established on October 16, 1934.⁶⁷

The redevelopment and extension of German clearing was undertaken to increase exports. Under clearing, exports would be balanced by imports, but this constituted no detriment. Germany needed imports. Clearing furnished one means of paying for them. Furthermore, clearing emphasized the fact that only through exports could Germany meet foreign obligations.

Because of Great Britain's threat of forced clearing, Germany negotiated the Anglo-German Transfer Agreement of July 4, 1934, under the terms of which Germany resolved to meet interest payments on all coupons of the Dawes and Young Loans, and to carry out the offer of May 29, 1934, with respect to other obligations to foreigners.⁶⁸ Arrangements were later made whereby the Reichsbank provided sterling up to 5 per cent of the value of British goods imported into Germany. Payment on the remaining 95 per cent was to be made in reichsmarks to the credit of a special account opened by the Bank of England and at the Reichsbank. The Bank of England was then to pay British exporters the sterling equivalent of the 95 per cent and was to reimburse itself by selling its reichsmarks to British importers of German goods. Since the balance of trade was in favor of Germany at the time, there seemed no reason why the agreement would not work.⁶⁹ This agreement was better known as the *Sondermark* Agreement, for the marks which the Bank of England had built up to its credit were inscribed in a special account. Certain limits were placed upon sums which could accumulate. The agreement failed principally because it was not compulsory from the English side. Consequently, *Sondermark* balances piled up. Since the *Sondermark* Agreement did nothing to liquidate the German trade debts which had accumulated, protests of Lancashire cotton spinners eventually resulted in another agreement of November 1, 1934. *Sondermarks* could be used only in payments to Great Britain. Part of the failure was due to the fact that the rate of discount on *sondermarks* was not great enough.

The Anglo-German Payments Agreement of November 1, 1934, was intended to maintain and regulate the current traffic in goods and other payments between the two countries and to avoid new unpaid balances

⁶⁷RGBl. I, 1934, October 20, p. 997: "Gesetz über die Errichtung einer Deutschen-Verrechnungskasse." The clearing account set up was a public corporation and fell under the supervision of the Ministry of Economics. Into it all clearing sums, save those specifically excepted, were paid. Special arrangements were made with Russia for the transfer of sums, but eventually this trade was also incorporated into the "New Plan."

⁶⁸See Chapter IV, p. 62.

⁶⁹*London Economist*, August 11, 1934, p. 263.

arising out of the traffic in goods. It was necessary to liquidate English commercial claims on Germany, and arrangements were made to clear up old debts within twelve months. For this purpose 400,000 pounds were to be set free as well as 10 per cent of the gains from exports. For the regulation of the traffic in goods a ratio of imports and exports between Germany and England was set at 55:100. This was based upon current statistics. Payments could be made in *devisen* direct to the English exporters up to 55 per cent of the German exports to England. For a time the demand for British goods was far in excess of the foreign exchange available, and it was necessary to cut the issue of foreign exchange certificates for several months. Arrangements were also made for certain deductions from the 55 per cent *devisen* quota for liquidation of old commercial debts and other purposes. As a whole the agreement proved satisfactory, for it resulted not only in the gradual liquidation of commercial indebtedness, but in the maintenance of trade.

When the problem of adjustments with regard to the Austrian debts rose in June, 1938, Sir John Simon announced that because of the unsatisfactory position of the guaranteed loans, it had been arranged that the British government would terminate the Anglo-German Payments Agreement on June 30. Since the Association of British Chambers of Commerce announced its willingness to support a system of licenses for exports of British semi-manufactures and raw products to Germany in order to make exchange clearing effective, it was apparent that the English were about to resort to forced clearings. After long negotiation with the German government, the British signed a Transfer Agreement⁷⁰ affecting the Austrian debts and a new Payments Agreement.⁷¹ Under the new Payments Agreement the allocation of sterling exchange for the purchase by Germany of British goods instead of being a flat 55 per cent was to be regulated by a sliding scale.⁷²

Principal points of agreements negotiated with other countries are the following:⁷³

1. Under clearing arrangements German debtors made payments into the *Verrechnungskasse* or the Reichsbank, while the foreign importers paid obligations to central banks or special clearing agencies. Clearing balances were then regulated according to terms of the agreement.

⁷⁰See page 65 for details concerning the Transfer Agreement.

⁷¹For the text of the Anglo-German Payments Agreement of 1938 see *Board of Trade Journal*, July 7, 1938, pp. 15, 16. See also *London Economist*, July 9, 1938, pp. 70, 75.

⁷²In practice, German imports of English goods including re-exports had exceeded 55 per cent. The new agreement provided for a basic quarterly import of 4.5 million pounds, plus or minus 90 per cent of the amount by which German exports for the previous quarter exceeded or fell short of 7.5 million pounds. So long as German exports to England exceeded 25.8 million pounds per year the scheme was to the advantage of British exporters. Provision was made whereby a larger portion of the earmarked sterling should be used for English goods, other than re-exports. Leeway was left for further adjustments should they prove necessary.

⁷³Benning, B., "Der 'Neue Plan' und die Neuordnung der deutschen Aussenwirtschaft," *Jahrbücher für National-Oekonomie und Statistik*, Band, 142, pp. 35-62.

2. With certain countries with whom Germany had an active balance of trade a devisen surplus was made available out of which Germany made adjustments in her passive balance with overseas countries from whom she imported raw materials.

3. In the clearing agreements with the creditors there was generally an arrangement with regard to the transfer of debts.⁷⁴

4. Transit trade was usually excluded from clearing agreements. Most of the agreements contained nationality clauses which permitted, in trade, only those goods produced within the country with whom the treaty was negotiated.

5. In certain agreements limits were set to the sums which German importers could pay into the special accounts.

6. Within certain of the agreements arrangements were also made for tourists' expenditures.

7. Most agreements were negotiated for short periods of time, and some could be terminated upon fourteen days notice.

In certain cases, there was no necessity to negotiate new clearing agreements, for those negotiated in 1932 and 1933 were still valid and applicable.⁷⁵ Some of the agreements were concluded between central banks; others between the governments concerned.⁷⁶ Measurement of the effects which the various agreements had upon trade of Germany is reserved for the next chapter.

A particular devise by which Germany attempted to insure raw materials for export industries was the raw material credit transaction. This was defined as a compensation transaction within the domain of the finishing industry. Goods exported within the framework of a raw material credit transaction had to be manufactured, for the most part, out of raw materials of the same kind as those imported within the same framework.⁷⁷ Raw materials were purchased on credit and the credit was repaid out of proceeds from sales abroad of finished goods fabricated from them. Under recent provisions for such transactions there was no necessity to fabricate exports from the very same imported raw materials. If the period of time for processing imported raw materials was long, raw material imports were not financed by the seller, but by a foreign bank, which was compensated from proceeds of sales of fabricated goods.

⁷⁴This was the case with Switzerland, France, Belgium, Holland, Italy, Sweden, Norway, and Czechoslovakia.

⁷⁵For details concerning clearing and payment agreements see Hoffman-Burges, *Clearing und Kompensation im internationalen Warenverkehr*, Berlin, 1935, and Reuter, Franz, *Die Neuregelung des deutschen Aussenhandels*, Berlin, 1935.

⁷⁶As of January 1, 1937, there were payment agreements with Argentina, Belgium, Canada, Great Britain, Portugal, Spain, and Syria, and clearing agreements with Brazil, Bulgaria, Chile, Colombia, Denmark, Poland and Danzig, Estland, Finland, France, Greece, Ireland, Italy, Jugoslavia, Lettland, Lithuania, Manchukuo, Netherlands, Norway, Austria, Rumania, Sweden, Switzerland, Czechoslovakia, Turkey, Russia, Hungary, Union of South Africa, and Uruguay.

⁷⁷*Bulletin of the Hamburg World Economic Archives*, December 1, 1934, pp. 13-15. For further discussion of raw material credit transactions see *ibid.*, March 1, 1935, p. 13; May 15, 1935, pp. 9-11. See also Hoffmann-Burges, *op. cit.*, pp. 171 ff.

It was expected that most raw material credit transactions would yield a surplus of devisen which could be demanded by the Reichsbank. If part of the raw materials were used for domestic consumption, at least 20 per cent of the exchange received through the export transaction had to be given the Reichsbank. An import transaction could not be concluded without a simultaneous export transaction. Permits were obtained from Control Offices for importation of the raw materials. Raw material credit transactions with countries with whom there were clearing agreements were not permissible. Special arrangements could be worked out involving exports to clearing countries and imports from non-clearing countries if the authorities of the clearing country consented in writing to payment direct to the foreign creditor of a part of the export proceeds equivalent to the value of the raw material contained in the exported goods, outside the framework of the clearing agreement.⁷⁸

To lessen costs of export industries obtaining necessary foreign raw materials, foreign materials fabricated in Germany for re-export were admitted duty-free. Control Boards could issue import permits for such materials. If German goods were fabricated abroad, the finished products could be admitted into Germany duty-free. Permits were necessary to pay foreign manufacturers for their work in finishing raw materials.

Three different kinds of compensation or barter transactions were possible, namely, pure barter transactions, privately conducted clearing transactions, and reciprocity transactions. Pure barter transactions involved direct exchange of goods for goods between a German exporter and a foreign exporter. Privately conducted clearing transactions ordinarily involved four different parties.⁷⁹ Reciprocity transactions were transactions in which claims of exporters and obligations of importers were not directly liquidated between firms concerned, but by way of officially arranged clearing accounts.⁸⁰ The distinguishing feature of private clearing transactions was the fact that payments or the balancing of transactions occurred outside clearing arrangements. For reciprocity transactions carried on within officially established clearing and payment agreements, permission had to be obtained from the *Ueberwachungsstellen*. For private clearing arrangements the consent of the Devisen Office was

⁷⁸*Bulletin of the Hamburg World Economic Archives*, May 15, 1935, pp. 9-11.

⁷⁹*Ibid.*, January 1, 1935, pp. 7-8. The transaction is thus explained: A German exporter satisfied himself as to his claim in connection with an export transaction out of the obligation incurred by a German importer in connection with an import transaction. The foreign exporter who had supplied merchandise to the German importer satisfied himself in respect of his claim out of the obligation incurred by the importer domiciled within his own country who had received the German export article concerned. It was, of course, not always necessary that four different firms should have to combine in such transactions. If one and the same firm in one or other of the two countries acted as importer as well as exporter, the number was automatically reduced to three; and if the same relationship existed on the other side also, only two firms were engaged in the transaction, which was then treated by the German authorities as a barter transaction.

⁸⁰*Ibid.*, p. 8.

necessary. In both cases import permits had to be obtained from a competent Control Office.

Special accounts designated as *Ausländersonderkonten für Inlandszahlungen* (ASKI accounts) were set up in Devisen Banks to facilitate development of compensation transactions. Foreign exporters desiring payments in marks could have them paid into these special accounts, which could be used to pay for German services and goods. ASKI accounts could not be set up for the benefits of nationals of countries with whom Germany had concluded clearing agreements. Permission from a competent *Ueberwachungsstelle* was necessary before payments could be made into ASKI accounts. In traffic with overseas countries, especially with Central and South America, ASKI accounts could be drawn up only in favor of a correspondent bank in the country from which the imported goods came.

The adjustment of exchange rates within the clearing agreements and the disposal of sums blocked under the clearing and ASKI agreements at a discount constituted a means of stimulating exports. The effects of ASKI accounts on trade with the South and Central American countries is discussed in detail in Chapter VII. Although ASKI accounts were not customary in trade with the United States, special arrangements were made in 1937 for the purchase of American cotton by way of ASKI accounts.

Compensation, or barter, transactions were carried on before the establishment of the "New Plan." As early as 1932 a *Beratungsstelle* (Information Office) for barter transactions was set up, and an International Commodity Clearing Company (*Internationale Warenclaring*) was established to stimulate exports. For a time barter furnished a means of trading with those countries with devisen control. German Chambers of Commerce investigated opportunities, and the *Reichsstelle für Aussenhandel* and its various agencies furnished information regarding barter opportunities.⁸¹

Within the bounds of clearing and compensation arrangements additional export facilities could be used to enable German goods to compete on world markets. Terms granted in barter transactions depended on the raw materials received. Prices at which goods obtained in barter transactions could be sold in Germany were strictly regulated. In connection with clearing and compensation transactions special agreements were usually made with regard to payments for incidental costs.

Barter transactions involved many difficulties. They resulted in no increase in exports, but merely in a balance between imports and ex-

⁸¹Two London City banks, Hambros Bank and Schroeder and Co., set themselves up as "Compensation Brokers Ltd." for compensation business with Germany. German banks also served as brokers between parties to compensation transactions.

ports. Since there was no means of encouraging a surplus of exports over imports through barter, Germany began, in November, 1936, to forbid compensation transactions with values under 50,000 Rm.

By the fall of 1937 the Foreign Exchange Board had specifically forbidden compensation deals with 28 countries with whom there were no clearing agreements, and with 26 other countries where clearing agreements existed. Even where compensation was nominally permitted permission was conditional on the possibility of obtaining payment in exchange and the potential effects of the transaction on the buying markets. At the same time, private clearing and the use of ASKI accounts was also made more difficult, particularly in cases where free exchange might be available. The extent to which the use of *devisen* in German foreign trade was eliminated is shown in the fact that in the first half of 1936 only 10.8 per cent of payments for imports were made in *devisen*.

By January, 1939, Germany had negotiated clearing and payment agreements with forty countries, not including those with whom the greater share of trade was carried on over ASKI accounts. It would be impossible to give the details of each agreement, for agreements were made to fit the mutual trade needs of Germany and the foreign countries concerned. A general classification of clearing, payment, and ASKI agreements appears in Chapter VII in the analysis of trade trends in the period 1930-1940.

An extreme in bilateralism, loudly protested by the French and English, was the German-Rumanian Trade Treaty of March 23, 1939. Because of clearing and because of the absorption of Austria, with whom Rumania had carried on considerable trade, Germany's participation in the total exports and imports of Rumania increased greatly after 1933. In some cases, particularly where raw materials and foodstuffs were concerned, Germany absorbed over 50 per cent of the total Rumanian exports. The treaty proposed the cooperative development and direction of Rumanian agricultural resources and the industrialization of certain portions of the Rumanian economy under German supervision and with German capital. The net result of the agreement, in English eyes, was the economic domination of a territory not completely ripe for political assimilation. The agreement did not limit the mutual expansion of commercial exchanges through quotas, but arranged for the delivery to Germany of a large proportion of Rumanian total production. Modifications of the agreement, after the outbreak of the war, enabled Rumania to bargain on more favorable terms.

CHAPTER VII

EFFECTS OF GERMAN CONTROL OVER INTERNATIONAL ECONOMIC RELATIONS

UNDERLYING CAUSES for the control which Germany exercised over international economic relations from 1930 to 1940 were found in the post-war development of Germany and in a complex of international forces ranging from extreme nationalism to economic depression. In the light of German dependence upon foreign capital and in view of peculiar monetary complications which developed in 1931, control over the outward movement of capital and attempts to stabilize the foreign exchanges can be understood. Since Germany depended on exports of finished commodities in order to maintain an influx of vital raw materials and food-stuffs and to meet foreign obligations, the conscious effort to develop an export balance through import reduction and export stimulation can be appreciated. The German experience in the late years of the World War and the sensitivity and vulnerability of the German economy to world economic vacillations, plus the revival of nationalism under National Socialism, help to explain the general acceptance of autarchy as a politico-economic philosophy after 1930.

A consideration of the effects of the control measures upon German international economic relations and upon the German economy must be tempered by the knowledge that forces other than these measures were also active. The present chapter will evaluate effects of various measures of control upon currency stability and international indebtedness, the volume, terms, character and direction of foreign trade, and upon certain aspects of the German economy and the world economy.

CURRENCY STABILITY

Official reichsmark quotations which reveal no violent fluctuations since the fall of 1931 might lead to the conclusion that various measures of control had effected complete stability. However, few transactions occurred at the official rate of exchange. Consequently, the true international value of the reichsmark must be derived from quotations from black bourses¹ in various foreign countries, the discounts on blocked marks, and the discounts on clearing and compensation marks.

On the one hand, discounts on mark notes sold in the black bourse were conditioned by offerings and offerings in turn by the ability of

¹The term "black bourse" does not necessarily imply that the bourse was illegal in the country in which it operated.

German frontier guards to prevent smuggling. Discounts were equally affected, on the other hand, by the demand of speculators, traders, and tourists for mark notes. Such demand reflected the confidence or lack of confidence in the political, financial, and economic stability of Germany, as well as the prospects of smuggling the notes back into Germany. Successive crises from 1938 to 1940 resulted in successively greater discounts on black market sales. In August, 1938, the discount on mark notes rose to 66 per cent.

Discounts on blocked marks reflected the possibilities for their employment within Germany,² and the anxiety of creditors to dispose of their holdings. Blocked sums could not be used freely for the purchase of German goods for export, but had to be accompanied by free exchange. By January, 1939, the discount on registered marks had risen to 63 per cent and that on handelsmarks, with which credit marks and emigrant marks had been merged, to 92 per cent.³ In August, 1939, the discount on registered marks in London was over 68 per cent. Discounts on clearing or compensation marks were conditioned by German imports and the accumulation in Germany of credits in favor of central banks or special clearing agencies, and German export possibilities to clearing countries. Such discounts were as high as 37 per cent in certain cases.⁴

In general, the various discounts on blocked marks, clearing, and compensation marks, and mark notes reflected not so much purchasing power parity as certain political considerations. Thus discounts were in no way indicative of the exact relationship of German prices to world prices, although the level of German export prices doubtless conditioned the discounts.

It is difficult to measure the internal value of the mark, for prices were placed under strict supervision. The effect of the Price Stop Decree and the regulation of wages is shown in the fact that the wholesale price index and the index for the cost of living were virtually motionless after 1936.⁵ Although increased government expenditures may have resulted in a greater volume of trade within Germany, it must be assumed that there was some depreciation in the value of the mark internally. Figures for the Reichsbank reserve may be found in Appendix I. The significance of the reserve as internal currency cover diminished as the control over markets and prices increased, and the London *Economist* referred to the seventy-odd millions of marks quoted regularly after 1938 as an "orna-

²Possibilities for utilizing various blocked accounts are reviewed in Appendix II.

³*London Economist*, January 28, 1939, p. 186.

⁴J. R. Huber, in an article on "The Effects of German Cotton Clearing Agreements and Import Restrictions on Cotton, 1934-1939" in *Southern Economic Journal*, VI, No. 4, April, 1940, pp. 419, 439, estimates that in March, 1937, average discounts on clearing or compensation marks were: Rumania, 37.2; Yugoslavia, 32.7; Bulgaria, 25.7; Hungary, 20.8; Austria, 10.8; Greece, 10.3; Poland, 5.9; Turkey, 3.9; Czechoslovakia, 2.7; Netherlands, 2.0; Chile, 28.5; Ecuador, 24.0; Brazil, 20.5; Peru, 20.3; Colombia, 13.8.

⁵See Appendix I.

mental fig leaf." Absorption of the gold and devisen reserve of the Austrian National Bank in March, 1938, was not registered in the Reichsbank reserve. It may be assumed that the sums involved were listed with other assets or utilized for the immediate purchase of vital foreign materials. The reserve of the National Bank of Czechoslovakia appears after March, 1939, as the reserve of the National Bank of Bohemia and Moravia and the National Bank of Slovakia. It is doubtful whether these reserves will remain inviolable should Germany become hard pressed for devisen during the present war.

FOREIGN DEBTS

Certain advantages adhered to maintenance of the fiction of a stable reichsmark. First, the control measures intended to safeguard the stability of mark exchange prevented a sudden flight of capital and a violent liquidation and deflation that might have resulted in the demoralization of business and finance. Furthermore, the semblance of mark stability forestalled a lapse of public confidence which might have led to a recurrence of events of 1923. Lack of confidence in domestic finances would have negated a large portion of the domestic economic policy of the National Socialists.

A second advantage lay in the fact that devaluations of the pound, the dollar, the franc, and other currencies resulted in a net diminution of about 6 billion Rm in that portion of the foreign debt expressed in foreign currencies. The registered and blocked mark procedures resulted in a stimulation of tourist travel, exports, and even in an increase in devisen,⁶ and paved the way for a reduction in foreign debt—at the expense of the creditor. Although blocking seemed the diplomatic prelude to default, it enabled foreign creditors to maintain the appearance of solvency, and the debtors of having the best of intentions. The repurchase of dollar and sterling bonds after these had fallen to low levels because of the moratorium of 1933 also reduced the foreign debt.

In the third place, the high mark rate made it possible for Germany to obtain certain imports less dearly than would have been the case had the mark been devalued. However, after 1934, only a small percentage of international transactions were carried on at the high official exchange rate.

The reduction in total foreign debts may be observed in Table 9. Figures for 1940 estimate Standstill sums owed neutrals. At the outbreak of the war England was owed approximately 400 million Rm on the Standstill account. Further details of the foreign debt in the period

⁶Payment for exports had to be made partly in free marks, or devisen.

TABLE 9.—DEVELOPMENT OF GERMAN FOREIGN DEBT SINCE JULY, 1931
In Billions of Reichsmarks

Date	Loans and credits				Total	Other foreign in- vestments (estimate)
	Long term	Short term				
		Standstill credits	Other	Total		
Middle of 1930.....	10.8	...	16.0	16.0	26.8	...
July 31, 1931.....	10.7	6.3	6.8	13.1	23.8	5.9
November 30, 1931.....	10.7	5.4	5.2	10.6	21.3	5.3
February 29, 1932.....	10.5	5.0	5.1	10.1	20.6	5.3
February 28, 1933.....	10.3	4.1	4.6	8.7	19.0	4.2 ¹
February 28, 1934.....	7.2	2.6	4.1	6.7	13.9	4.2 ¹
February 28, 1935.....	6.4	2.1	4.6	6.7	13.1	...
February 29, 1936.....	6.1	1.7	4.6	6.3	12.4	...
February 28, 1937.....	5.4	1.2	4.2	5.4	10.8	...
February 28, 1938.....	5.0	0.9	4.1	5.0	10.0	...
February 28, 1939.....	4.6	0.78	4.1	4.9	9.5	3.0 ²
February 28, 1940.....	...	.3 ³	...	...	...	...

¹Of which direct investments 4.0, and national bonds held by foreigners 0.2.²Foreigners' investments in Germany in the form of real estate, participations, etc. according to an estimate by Dr. Eicke, one of the Governors of the Reichsbank.³Estimate of Standstill credits owed neutrals in February, 1940.Source: League of Nations, *Balance of Payments*, 1939, p. 58.

1932-1938 may be observed in Table 10, and in Appendixes V and VII. Although American creditors held more than 50 per cent of the utilized Standstill credits at one time, they were able to reduce their share to 23 per cent by 1939 through resort to the registered mark process. About 60 per cent of the total credits were owed British creditors in 1939, although the actual amount owed had been reduced greatly since 1931.

The strategy of the German government in utilizing the blocked mark mechanism and the moratorium to its advantage can be understood, even though it cannot be justified on ethical grounds. From the National Socialist standpoint, the fulfillment of "national destiny" seemed more important than the fulfillment of international obligations. Release of more *devisen* for the repayment of debts, particularly after 1934, would have meant that smaller sums could be used for the importation of raw materials and foodstuffs vital to national recovery and remilitarization. It is difficult to tell what degree of truth there was in the frequent German assertion that greater repayments on debts were impossible unless Germany exported more. Until it is known definitely that excessive *devisen* reserves were accumulated for military purposes after 1933, some allowance must be made for the validity of the claim that debt repayment depended upon exports. In the light of the barriers to international trade, difficulties involved in exporting can be understood.

The fate of the remaining obligations of Germany will be conditioned by the course and conclusion of the present war. Judging from trade developments during early months of the war, commitments to neighbor-

TABLE 10.—ANALYSIS OF GERMAN FOREIGN SHORT-TERM INDEBTEDNESS
Millions of Reichsmarks at end of February

	1932	1933	1934	1935	1936	1937	1938
Old debts:							
Standstill ¹	5,040	3,853	2,528	1,961	1,567	1,165	900
Municipal Standstill ²	247	200	148	110	80	41	20
Lee Higginson credit ³	524	433	257	82	18	.....	.....
Central Bank credit ⁴	420	360	.....	.....	.....	.....	.....
Totals.....	6,231	4,846	2,933	2,153	1,665	1,206	920
New debts:							
Konversionskasse ⁵.....	.....	.....	135	271	453	532	619
Young and Dawes amortiza- tion ⁶.....	.....	.....	7	33	70	98	126
Lee Higginson amortiza- tion ⁷.....	.....	.....	44	93	157	175	175
Clearing debts ⁸.....	.....	.....	.....	510	500	450	250
Totals.....	.....	.....	186	907	1,180	1,255	1,170
Total classified debts.....	6,231	4,846	3,119	3,060	2,845	2,461	2,090
All other debts.....	3,922	3,856	3,640	3,623	3,455	2,939	2,910
Total short-term debts.....	10,153	8,702	6,759	6,683	6,300	5,400	5,000

¹The figure of Standstill debts given for 1932 includes all debts under the Standstill definition, whether or not formal adherence was made to the agreement. Since figures after 1933 represent total credit lines, whether utilized or not, actual indebtedness is overstated. The figure of 900 million reichsmarks for February, 1938, is an estimate based on the published figures for September, 1937, and 1938, 1,010 million reichsmarks and 839 million reichsmarks, respectively. Some 50 million reichsmarks Austrian debts and 10 million reichsmarks Sudeten debts were later added to the total under the head of Standstill debts.

²Figures as of March 15th. Official German figures relating to March 31st give higher figures than those included in the Municipal Standstill, e.g., 263 million reichsmarks for March, 1932, declining to 51 million reichsmarks in 1937. The figure for 1938 is an estimate.

³Granted October, 1930, to the German government for one year (periodically renewed since). It amounted originally to \$125 millions, of which \$100 millions were from a group of American and British banks and \$25 millions from German banks. Quarterly amortization took place regularly until the transfer moratorium of 1933. Thereafter amortization made in reichsmarks and untransferred was placed in a special Reichsbank account.

⁴The central bank credit of \$100 millions was granted to the Reichsbank in June, 1931, in equal shares by the Bank of France, the Bank of England, the Federal Reserve Bank of New York and the Bank for International Settlements, and was repaid in full in April, 1933. In the table it has been assumed that the whole of the credit of \$100 millions was outstanding in February, 1932 (converted at 4.2 Reichsmarks to the dollar).

⁵The *Konversionskasse für Deutsche Auslandsschulden* is a subsidiary of the Reichsbank formed in 1933 at the time of the transfer moratorium to receive from German debtors amounts of interest and amortization, etc., payable in foreign currencies outside Germany which, under the moratorium, could not be transferred. Payment to the *Konversionskasse* operates as a discharge of the debtor from liability under German law, but there is no obligation for the debtor to make his payments to the *Kasse*. The indebtedness under this heading is therefore partly new, e.g., in so far as interest payments are concerned, and partly old, as long-term loans falling due are reclassified from the long-term category. The *Kasse* has published monthly returns since its inception from which the figures in the table are taken. All its obligations to foreigners have been considered as short-term.

⁶The untransferred amortization of the Young and Dawes loans is placed in a special account at the Reichsbank. The amounts untransferred are, however, deducted from the amount of long-term debt outstanding published in the official monthly statement of the public debt . . . and, presumably, counted as short-term.

⁷The untransferred amortization of the Lee Higginson credit is placed in a special account at the Reichsbank. Regular quarterly amortization of about Rm. 16 milliardi has been made in place of the dollar amount of \$3.8 millions. After the depreciation of the dollar, amortization was continued in reichsmarks at the equivalent of the old dollar value, so that the special account at the Reichsbank accumulated about 280 million reichsmarks. As the dollar amount outstanding remained at \$70 millions, the untransferred amortization (shown in the monthly statement of the government debt) has been limited in the above table to 175 million reichsmarks (i.e., at the exchange rate of the day).

⁸For details regarding Clearing debts see Appendix VI.

Source: *London Economist*, February 11, 1939, p. 301.

ing neutrals, both on old debt and clearing debt accounts, will be fairly well liquidated. A formal declaration of allegiance to the Allied cause on the part of the United States would place American credits in the same position as those of England. Though a German victory could lead to outright and final repudiation of all foreign debts, and particularly of

TABLE II.—GREATER GERMAN FOREIGN TRADE
In Millions of Reichsmarks

Period	"Old" Reich ¹			Austria ¹			Greater Germany ¹		
	Imports	Exports	Balance	Imports	Exports	Balance	Imports	Exports	Balance
1929.....	13,446.8	13,482.7	+35.9	1,927	1,292	-635	.....	.....	.....
1930.....	10,393.0	12,036.0	+1,643.0	.....	.....	.....	.....	.....	.....
1931.....	6,727.0	9,599.0	+2,872.0	.....	.....	.....	.....	.....	.....
1932.....	4,666.5	5,739.2	+1,072.7	711	393	-318	.....	.....	.....
1933.....	4,203.6	4,871.4	+667.8	551	371	-180	.....	.....	.....
1934.....	4,431.0	4,166.9	-264.1	556	461	-95	.....	.....	.....
1935.....	4,158.7	4,169.7	+11.0	591	439	-152	.....	.....	.....
1936.....	4,217.9	4,768.2	+550.3	611	466	-145	.....	.....	.....
1937.....	5,468.4	5,911.0	+442.6	682	571	-111	.....	.....	.....
1937 ²	5,374.9 ²	5,788.0 ²	+413.1 ²	.....	.....	.....	.....	.....	.....
1938.....	5,449.3	5,256.9	-192.4	602.4	362.2	-240.2	6,051.7	5,619.1	-432.6
1938—January.....	479.4	445.4	-34.0	40.4 ³	31.1 ³	-9.3 ³	.....	.....	.....
February.....	448.5	427.4	-21.1	39.6 ³	31.8 ³	-7.8 ³	.....	.....	.....
March.....	454.9	466.5	+11.6	42.7 ³	34.4 ³	-8.3 ³	.....	.....	.....
April.....	429.7	424.1	-5.6	47.4	29.5	-17.9	477.1	453.6	-23.5
May.....	456.9	439.4	-17.5	60.8	38.4	-22.4	517.7	468.8	-48.9
June.....	429.6	407.5	-22.1	56.2	33.5	-22.7	485.8	441.0	-44.8
July.....	417.1	443.0	+25.9	55.2	30.6	-24.6	472.3	473.6	+1.3
August.....	457.0	420.3	-36.7	52.5	25.6	-26.9	509.5	445.9	-63.6
September.....	450.1	416.2	-33.9	42.6	25.9	-16.7	492.7	442.1	-50.6
October.....	476.5	466.4	-10.1	51.0	23.7	-27.3	527.5	490.1	-37.4
November.....	463.8	430.8	-33.0	60.4	23.7	-36.7	524.2	454.5	-69.7
December.....	485.8	479.0	-6.8	56.1	25.1	-31.0	541.9	504.1	-37.8
1939—January.....	409.8	418.4	+8.6	62.4	22.7	-39.7	472.2	441.1	-31.1
February.....	425.7	388.3	-37.4	45.8	22.7	-23.1	471.5	411.0	-60.5
March.....	453.9	455.7	+1.8	50.3	24.8	-25.5	504.2	480.5	-23.7
January ⁴.....	.....	.....	.....	.....	.....	.....	478.1	466.6	-11.5
February ⁴.....	.....	.....	.....	.....	.....	.....	478.8	418.4	-60.4
March ⁴.....	.....	.....	.....	.....	.....	.....	513.0	489.5	-23.5
April ⁴.....	.....	.....	.....	.....	.....	.....	402.5 ⁵	437.2 ⁵	+34.7 ⁵
May ⁴.....	.....	.....	.....	.....	.....	.....	439.6 ⁵	485.3 ⁵	+45.7 ⁵

¹After January, 1938, excluding trade between the "Old" Reich and Austria; after October, 1938, including foreign trade of Sudetenland but excluding trade between Austria or the "Old" Reich and the Sudetenland. ²For purposes of comparison with 1938 trade with Austria has been excluded. ³Estimated. ⁴Increase in special trade; processing trade. ⁵After April including foreign trade of Memel (returned to Germany in March), but excluding trade with the protectorate of Bohemia-Moravia.

Source: *Weekly Report of the German Institute of Business Research*, July 27, 1939, p. 76.

those owed Great Britain and France, there is no guarantee that cancellation would occur. Under international law private debts between nationals of belligerent countries are suspended, not cancelled, by the declaration of a state of war.

INTERNATIONAL TRADE BALANCE

From 1930 to 1940 significant changes occurred with respect to the volume, terms, character, and direction of German foreign trade. Although changes were conditioned principally by German control measures, they were also affected by external forces such as international financial instability, world wide depression, the increased tendency toward economic isolation, higher tariffs, narrower quotas, depreciated currencies, empire preference systems, boycotts on German exports, intensified competition in foreign markets, and the uncertain course of political events. In few instances is it possible to isolate specific causal factors, for changes which took place were conditioned by many factors. Then, too, trade was affected not only by direct measures of control, but by a complex of other internal occurrences.

Table II reveals that from 1930 to 1932 the trade balance was encouragingly active. Until 1933, tariffs and other restrictions, the relatively great fall of import prices, and the complete absence of foreign borrowings caused imports to decline more rapidly than exports. Deflation within Germany, the maintenance of export prices, and aggressive marketing kept exports up. With the upswing in business activity as a consequence of the National Socialist re-employment and rearmament program came an increased demand for foreign raw materials. Advantages which exporters had enjoyed from 1930 to 1932 tended to disappear. Deflation ceased, foreign trade barriers increased, the pound and related currencies fell in 1931 and the dollar in 1933, competition abroad became more severe, and German goods faced boycotts in foreign markets. By the early part of 1934, import restrictions and export stimulatives notwithstanding, the trade balance was decidedly passive. Since currency reserves were almost depleted, it became necessary to effect a new relationship between devisen control, import supervision, and export encouragement in the "New Plan." The effects of this plan with its emphasis upon adjustment of imports to exports in such a way that a devisen surplus might be acquired, and with its discrimination in favor of necessary imports, may be seen in the monthly foreign trade figures in Appendix I.

It will be noted that after the latter part of 1934, German exports increased, whereas imports declined in 1935 from the 1934 level, and made but a slight gain in 1936 over the 1935 level. The increase in the value of total foreign trade is partly accounted for by rising prices. A general

TABLE 12.—GERMAN BALANCE OF PAYMENTS, 1933-1935
In Millions of Reichsmarks

	1933			1934			1935		
	Active	Passive	Balance	Active	Passive	Balance	Active	Passive	Balance
Trade.....	4,957	4,201	+666	4,240	4,613	-373	4,335	4,338	-3
Services.....	735	422	+313	886	422	+464	937	486	+451
Interest, dividends, etc.....	150	997	-847	125	750	-625	100	650	-550
Gold and foreign movements.....	447	..	+447	424	..	+424	34	4	+30
Movements of capital.....	603	1,410	-807	1,310	1,130	+190	837	710	+127
Miscellaneous reckoned as balance.....	228	.....	+228	.....	80	-80	.....	55	-55
Total.....	7,125	7,120	.....	6,985	6,985	.....	6,243	6,243	.....

Source: *Statistisches Jahrbuch für das Deutsche Reich*, 1936, p. 504.

world recovery, as much as deliberate German policy, caused an increase in the total volume of trade. In 1937 the balance remained active, but by a smaller margin than in 1936. Table 11 takes cognizance of the fact that relationships between Germany and Austria ceased to be classified as foreign, whereas former Austrian exports and imports were included within the trade of the Greater Germany. After April, 1939, the foreign trade of Memel was included in the Reich total, but not the trade with the protectorate of Bohemia-Moravia.

The increasing need for foreign raw materials and foodstuffs is reflected in the passive balance for 1938 and the early months of 1939. Although part of this import surplus could have been realized through the piling up of clearing credits⁷ to the favor of foreign countries, at least a portion was paid for by the export of gold and devisen reserves, possibly those of the Bank of Austria. Since, in 1938, the prices of raw materials fell more rapidly than those of finished products, Germany acquired a proportionately larger volume of imports per unit of money than in the previous three years. The normally passive balance of Austria accounts, in part, for the passive balance of Greater Germany after 1937. After the early months of 1939 the trade balance became active. A diminution in total trade after the outbreak of the war can be explained in terms of the English blockade and the disappearance of trade with England and France.⁸

An active trade balance meant the accumulation of little gold and devisen, for commitments to foreign creditors under the payments agreements had to be met. Furthermore, only a small portion of the total trade was carried on with foreign exchange. No figures for the balance of international payments were published after 1935. The balance for the period 1932-1935 may be observed in Table 12.⁹

TERMS OF TRADE

Because of the fact that German imports consist largely of raw materials and foodstuffs and exports of finished goods, German barter terms of trade improve when world conditions worsen. Since finished commodity prices fell less rapidly than raw material and food prices, German terms of trade improved from 1930 to 1932. From 1932, when the relation of export prices to import prices was most favorable to Germany, until the early part of 1937, the net barter terms of trade grew steadily worse. With the decline in world business activity in the fall of 1937 and throughout 1938, terms of trade became more favorable.¹⁰

⁷For figures on the accumulation of clearing credits from 1934 to 1938 see Appendix VI.

⁸For an interesting account of the effect of the blockade on German foreign trade see Hillman, H. C., "Analysis of Germany's Foreign Trade and the War," in *Economica*, Vol. VII, No. 25, February, 1940.

⁹Figures on the balance of payments from 1924-1932 are shown in Table 1 on page 16.

¹⁰For details see *Weekly Report of the German Institute for Business Research*, January 11, 1939.

TABLE 13.—IMPORT TRADE ACCORDING TO CLASSES OF COMMODITIES, 1927-1938
Value in Millions of Reichsmarks

Commodities	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938
Livestock.....	171	144	149	118	54	34	30	33	45	96	108	109
Food and beverages.....	4,326	4,188	3,822	2,969	1,969	1,493	1,082	1,066	995	1,403	1,935	2,016
Raw materials and semi-manufactures.....	7,192	7,218	7,205	5,508	3,477	2,411	2,420	2,600	2,552	2,321	2,956	2,943
Finished goods.....	2,538	2,450	2,269	1,797	1,224	727	670	750	564	398	376	381
Total imports.....	14,227	14,000	13,445	10,392	6,724	4,665	4,202	4,449	4,156	4,218	5,375	5,449

Percentage Distribution by Classes of Commodities												
Livestock.....	1.2	1.0	1.1	1.1	0.8	0.7	0.7	0.8	1.1	2.3	2.0	2.0
Food and beverages.....	30.4	29.9	28.4	28.6	29.3	32.0	25.8	24.0	23.9	33.3	36.0	37.0
Raw materials and semi-manufactures.....	50.6	51.6	53.6	53.0	51.7	51.7	57.6	58.4	61.4	55.0	55.0	54.0
Finished goods.....	17.8	17.5	16.9	17.3	18.2	15.6	15.9	16.8	13.6	9.4	7.0	7.0
Total imports.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Statistisches Reichsamt, *Statistisches Jahrbuch für das deutsche Reich*, and *Monatliche Nachweise über den auswärtigen Handel*.

TABLE 14.—EXPORT TRADE ACCORDING TO CLASSES OF COMMODITIES, 1927-1938
Value in Millions of Reichsmarks

Commodities	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938
Livestock.....	29	19	22	69	47	14	9	4	3	5	6	5
Food and beverages.....	441	623	702	480	359	203	172	117	75	86	81	58
Raw materials and semi-												
manufactures.....	2,608	2,750	2,926	2,450	1,813	1,032	903	790	774	877	1,099	910
Finished goods.....	7,724	8,885	9,833	9,038	7,380	4,488	3,787	3,256	3,418	3,800	4,602	4,284
Total exports.....	10,802	12,277	13,483	12,037	9,599	5,737	4,871	4,167	4,270	4,768	5,788	5,257

Percentage Distribution by Classes of Commodities												
Livestock.....	0.3	0.2	0.2	0.6	0.5	0.3	0.2	0.1	0.1	0.1	0.1	0.1
Food and beverages.....	4.1	5.0	5.2	4.0	3.7	3.5	3.5	2.8	1.8	1.8	1.4	1.1
Raw materials and semi-												
manufactures.....	24.1	22.5	21.7	20.3	18.9	18.0	18.6	19.0	18.1	18.4	19.0	17.3
Finished goods.....	71.5	72.3	72.9	75.1	76.9	78.2	77.7	78.1	80.0	79.7	79.5	81.5
Total exports.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Statistisches Reichsamt, *Statistisches Jahrbuch für das deutsche Reich, and Monatliche Nachweise über den auswärtigen Handel*.

TABLE 15.—SIGNIFICANT COMMODITY IMPORTS, 1929-1936
Value in Millions of Reichsmarks

Commodity	1929	1930	1931	1932	1933	1934	1935	1936
Wheat.....	448	231	101	109	71	60	14	6
Rye.....	...	10	10	59	19	4	15	2
Corn.....	302	205	67	52	14	37	12	2
Maize, Dant.....	118	91	51	58	15	23	18	9
Vegetables, etc.....	142	115	88	60	47	53	43	40
Fruits.....	456	458	374	285	256	249	241	241
Coffee, Tea, and Cocoa.....	493	388	288	187	161	160	156	165
Butter.....	461	376	219	106	83	73	86	97
Eggs.....	280	169	109	128	78	74	62	75
Raw Tobacco.....	248	259	158	129	120	123	118	126
Oil fruits and seeds.....	860	645	436	320	268	219	155	193
Wood.....	386	300	118	69	70	134	150	...
Sawn timber.....	97	80	44	25	46	62	60	49
Stone Coal.....	156	139	103	61	58	66	54	56
Mineral oil.....	334	402	256	143	127	136	165	...
Ores (total).....	506	412	223	117	148	181	226	...
Iron ore.....	315	266	128	54	58	88	123	168
Non-precious metals (total).....	695	421	263	167	202	215	107	...
Copper.....	403	250	156	95	102	96	80	9
Textile raw materials (total).....	1,871	1,230	767	665	655	680	694	...
Cotton.....	814	580	336	291	307	260	329	257
Wool and other animal hair.....	739	495	321	236	266	322	248	229
Yarns (total).....	513	401	264	152	136	153	142	...
Woven goods (total).....	297	250	161	76	55	56	50	48
Other goods.....	2,512	2,171	1,626	1,082	841	827	721	2,446
Total imports.....	13,446	10,393	6,727	4,666	4,203	4,451	4,159	4,218

Source: Statistisches Handbuch der Weltwirtschaft (p. 15), Statistisches Jahrbuch für das deutsche Reich, and Monatliche Nachweise über den auswärtigen Handel.

The calculation of the net barter terms of trade of Germany is complicated by the fact that quoted German export prices do not allow for the sizeable discounts offered foreign buyers. Since these discounts varied from period to period they may have negated what at the time appeared to be increasingly favorable terms of trade. The above analysis is based on quoted price indexes.

CHARACTER OF FOREIGN TRADE

Changes in imports and exports by classes of commodities are shown in Tables 13 and 14. Dependence of the German economy upon foreign foodstuffs and raw materials is apparent. Normally around 80 per cent of total imports have consisted of items falling within these two classes. Agricultural protection, attempts to increase self-sufficiency, and declining world prices account for the decline in the percentage of imports of foodstuffs to total imports from 1929 to 1936. The increases in 1937 and 1938 were probably due to the increase in world prices and general shortage within Germany, for with greater employment came a greater demand for consumption goods. Diminishing percentages for imports of finished goods are explained in terms of changes in the direction of German trade which will be noted shortly. Revival of industrial activity under the impetus of public works and rearmament tended to increase the percentage of imports of raw materials and semi-manufactures, although rising world prices were partly responsible for the increase, up until 1937.

The percentage of exports of finished commodities to total exports tended to increase, whereas the percentage for raw materials and foodstuffs, which were needed within Germany, decreased. Here again, the relatively greater fall of raw material and foodstuff prices as compared with industrial prices influenced the changing proportion of these classes of commodities to total exports. After 1935 the export of certain vital raw materials and foodstuffs was forbidden.

Values of significant commodities imported from 1929 to 1936 are shown in Table 15. Diminution in imports of grains, vegetables, eggs, butter, and oil fruits and seeds, mirrored the protection afforded the grain growers and the *Veredelungswirtschaft* and certain effects of the German Fat Plan.¹¹ Increased use of synthetic fibres such as cellulose wool accounted for the successively smaller imports of cotton, wool, and other textile fibres. Figures for quantity imports of essential war materials in the years 1933-1939 are contrasted with those for 1913 in Table 16. With the notable exception of wheat, textile fibres, and coal, imports of these war materials were, for the better part, greater than they were in 1913.

¹¹For an informative and extremely interesting account of the plan see Brandt, Carl, *The German Fat Plan*.

TABLE 16.—IMPORTS OF ESSENTIAL WAR MATERIALS, FATS, ETC., INTO THE "OLD REICH"—YEARS 1913, 1933, 1936-1938 AND JANUARY-FEBRUARY, 1939

All Figures Are in Thousands of Metric Tons

Number of commodity	Commodity	Total All Countries					
		January-December					January-February
		1913	1933	1936	1937	1938	1939
1	Wheat.....	2,546.0	770.3	74.1	1,219.0	1,267.7	67.7
2	Maize.....	918.7	254.1	171.8	2,158.9	1,895.4	32.0
3	Oilseeds and nuts..	1,747.4	2,290.7	1,661.4	1,670.3	1,846.4	340.6
4	Butter.....	54.2	59.1	75.4	86.8	92.3	13.0
5	Lard, suet, drip- pings, etc.....	134.1	78.6	32.0	34.3	42.0	6.9
6	Marine oil (not hardened).....	55.6	188.5	118.3	125.3	120.2	10.8
7	All other oils and fats.....	94.6	141.2	197.8	211.2	238.1	43.0
8	Wool.....	245.2	197.9	125.4	128.2	166.1	31.3
9	Cotton.....	583.5	473.3	325.0	349.6	352.8	53.0
10	Flax, jute, etc.....	358.2	213.4	197.8	265.7	261.2	55.6
11	Rubber.....	29.0	60.5	82.7	123.2	108.5	16.8
12	Coal.....	17,675.0	5,894.2	6,103.9	6,650.5	6,411.8	863.9
13	Crude mineral oil..	(See 14)	(See 14)	982.8	1,197.9	1,326.4	144.4
14	Refined mineral oil	1,294.4	2,647.5	3,235.2	3,109.4	3,640.6	533.1
15	Iron ore.....			18,469.3	21,620.9	21,927.5	3,009.1
16	Iron ore with manganese.....	14,020.0	4,571.6				
17	Manganese ore....	(See 24)	131.9	1,883.9	2,517.8	1,685.3	220.0
18	Copper ore.....	27.6	240.9	229.6	554.2	425.8	28.2
19	Lead ore.....	(See 24)	(See 24)	482.5	555.6	653.9	113.6
20	Zinc ore.....	313.3	79.1	120.6	146.3	185.0	33.6
21	Chrome ore.....	(See 24)	(See 24)	123.4	132.2	176.4	28.2
22	Nickel ore.....	(See 24)	(See 24)	17.7	20.0	34.2	9.6
23	Pyrites.....	1,025.7	849.1	1,042.8	1,464.4	1,430.9	177.3
24	Other ores.....	2,219.4	1,085.1	78.8	105.3	119.7	16.9
25	Bauxite.....	(No details)	(No details)	981.2	1,313.2	1,184.6	107.1
26	Iron (pig).....			112.8	159.6	447.2	217.2
27	Iron (scrap).....	460.9	431.7	345.5	588.1	1,164.1	186.5
28	Aluminum (in- cluding scrap)...	15.3	2.8	6.2	7.1	18.8	3.7
29	Copper.....	245.1	207.1	195.1	262.5	358.4	44.9
30	Nickel (including scrap, coins)....	(See 34)	(See 34)	3.4	3.4	4.0	0.7
31	Lead (including scrap).....	83.8	48.7	68.9	73.3	75.3	5.8
32	Tin (including scrap).....	14.2	14.9	9.2	10.3	12.1	1.4
33	Zinc (ref. g.o.b. and scrap).....	57.6	100.6	72.8	70.7	74.9	12.8
34	Other metals.....	9.9	13.2	6.9	10.2	12.4	2.1
35	Coke.....	594.5	717.9	663.4	549.8	591.3	96.3

Primary Source: *Monatlich Nachweise über den Auswärtigen Handel Deutschlands.*Secondary Source: *London Economist*, May 20, 1939, p. 437.

Enlarged industrial capacity, as well as rearmament on a larger scale accounts for the change.¹²

DIRECTION OF FOREIGN TRADE

The direction of foreign trade was greatly changed by various restrictive measures, political factors, and international economic developments beyond the control of Germany. Values and percentages for total ex-

¹²For further details and figures concerning the imports of raw materials from specific countries see *London Economist*, May 20, 1939, pp. 437-439.

ports to and imports from principal countries between 1929 and 1939 appear in Tables 17 and 18. Germany long relied upon an export balance with European countries to acquire devisen for raw materials from overseas markets. A decrease in exports to Europe with a resultant diminution of the favorable balance of trade forced Germany to introduce severe restrictions on purchases and on foreign exchange quotas in the early summer of 1934. The decline in the surplus of exports to Europe from 1932 to 1935 may be accounted for in part by poor business conditions, trade restrictions, and Germany's efforts to liquidate funds frozen abroad through the importation of commodities. Under the "New Plan," the balance of trade with Europe was not as favorable as it had been, though there was a tendency for it to improve. The balance with overseas countries became more favorable, particularly in the case of the United States and Argentina. Failure to come to satisfactory commercial agreement with the United States resulted in a shift of cotton purchases to other markets, particularly Brazil, with whom Germany had worked out transfer facilities. German agricultural protection accounted for the reduction of imports from Argentina.

The stimulus given to exports to Russia by the extension of credits in 1931 and 1932 was brief. A number of factors, including American competition, inability of Germany to supply items which Russia needed without deprivation at home, and the desire of Russians to sell for free exchange plus their ability to buy with free exchange caused a diminution of Russo-German trade. New trade arrangements worked out at the close of 1939 and in February of 1940 and the granting of new credits to Russia indicate that basic difficulties were not ideological differences. Trade between Germany and Russia should revive during the present European conflict, particularly since the renewal of German credits.

Commercial policy after the introduction of the "New Plan" emphasized bilateralism. Trade with particular countries was conditioned by the type of commercial and financial agreement that Germany was able to effect with them. A classification of countries according to the type of arrangements worked out would include:¹³

1. Countries with whom payment agreements had been negotiated and with whom Germany was obliged to use a certain percentage of German export proceeds for the purchase of goods, such as:

- a. those where the Reichsbank had a free exchange surplus;
- b. those where the relation between exports and imports was supposed to be 1:1; and
- c. those with whom special arrangements had been made.

¹³Adapted from *Supplement to the Weekly Report of the German Institute of Business Research*, for May 23, 1939: "The Position of Clearing Agreements in German Foreign Trade."

TABLE 17.—EXPORTS TO PRINCIPAL COUNTRIES, 1929-1939
Value in Millions of Reichsmarks

	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939 (Jan.- March)
United States.....	909	685	487	281	245	157	169	172	209	147	41
Netherlands.....	1,335	1,205	954	632	612	431	404	395	468	446	106
Russia.....	1,355	1,435	782	635	282	63	39	120	117	31	9
Great Britain.....	1,305	1,318	1,113	446	405	382	374	405	432	352	80
Italy.....	1,055	1,184	1,140	233	227	235	278	240	311	204	73
France.....	934	1,148	834	482	395	281	252	254	313	215	47
Czechoslovakia.....	657	528	423	250	160	148	130	139	151	136	81
Belgium.....	608	600	463	301	278	235	201	211	288	226	56
Argentina.....	371	287	174	100	100	87	97	97	147	147	33
British India.....	220	190	157	109	186	94	111	121	148	110	38
Sweden.....	475	494	424	228	191	198	206	230	277	268	71
Dutch Indies.....	187	131	79	43	38	34	35	38	56	52	12
China.....	185	149	110	82	80	77	95	132	138	126	24
Switzerland.....	627	637	541	411	352	295	356	225	211	205	52
Australia.....	84	48	31	20	20	21	25	34	40	42	8
Denmark.....	483	477	369	164	144	140	141	182	213	205	52
Spain.....	218	188	119	90	85	87	105	69	55	94	22
Brazil.....	210	120	166	48	76	74	118	133	177	161	37
Norway.....	226	207	162	100	85	91	87	91	140	68	33
Austria.....	441	366	275	159	126	106	107	108	133	110	43
Hungary.....	146	118	84	47	38	39	62	83	111	110	43
Rumania.....	164	137	92	64	46	59	63	103	130	147	39
Poland.....	243	250	140	70	55	38	40	53	72	105	27
Yugoslavia.....	152	172	95	43	33	31	36	77	134	113	37
Bulgaria.....	44	22	25	20	17	19	39	47	68	58	16
Others.....	2,093	1,760	1,239	711	701	705	799	1,006	1,351	1,377	318
Total exports.....	13,482	12,035	9,598	5,739	4,871	4,166	4,269	4,771	5,911	5,249	1,355

TABLE 17.—*Concluded*
Percentage of Total Exports to Principal Countries

	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939 (Jan.-March)
United States.....	7.4	5.7	5.1	4.9	5.1	3.8	4.0	3.6	3.5	2.8	3.0
Netherlands.....	10.1	10.0	9.9	11.0	12.6	11.6	9.5	8.3	7.9	8.5	7.8
Russia.....	2.6	3.6	7.9	10.9	5.8	1.5	0.9	2.7	2.0	0.6	0.7
Great Britain.....	9.7	10.1	11.8	7.8	8.3	9.2	8.8	8.4	7.3	6.7	5.9
Italy.....	4.5	4.0	3.6	3.9	4.7	5.9	6.5	5.0	5.3	5.8	5.4
France.....	6.9	9.5	8.7	8.4	8.1	6.8	5.9	5.3	5.3	4.1	3.5
Czechoslovakia.....	4.9	4.4	4.4	4.4	3.3	3.6	3.0	2.9	2.6	2.6	6.0
Belgium.....	4.5	5.0	4.8	5.3	5.7	5.7	4.7	4.4	4.9	4.3	4.1
Argentina.....	2.8	2.4	1.8	1.6	2.1	2.1	2.3	2.0	2.5	2.8	2.4
British India.....	1.6	1.6	1.6	1.9	1.8	2.3	2.6	2.6	2.5	2.1	2.8
Sweden.....	3.5	4.1	4.4	4.0	3.9	4.8	4.8	4.8	4.7	5.1	5.2
Dutch Indies.....	1.4	1.1	0.8	0.8	0.8	0.8	0.8	0.8	1.0	1.0	0.9
China.....	1.4	1.2	1.5	1.4	1.7	1.9	2.2	2.8	2.5	2.4	1.8
Switzerland.....	4.7	5.2	5.6	7.2	7.2	7.1	6.0	4.7	3.9	3.9	3.8
Australia.....	0.6	0.4	0.2	0.4	0.4	0.5	0.6	0.7	0.7	0.8	0.6
Denmark.....	3.6	4.0	3.9	2.9	3.0	3.4	3.3	3.8	3.6	3.9	3.8
Spain.....	1.6	1.6	1.4	1.6	1.8	2.1	2.5	1.4	0.9	1.8	1.6
Brazil.....	1.6	1.0	0.7	0.9	1.6	1.8	2.8	2.8	3.0	3.1	2.7
Norway.....	1.7	1.7	1.7	1.7	1.7	1.9	2.0	1.9	2.4	1.3	2.4
Austria.....	3.3	3.0	2.9	2.8	2.5	2.6	2.5	2.3	2.1	...	...
Hungary.....	1.1	1.0	0.9	0.8	0.8	0.9	1.5	1.7	1.9	2.1	3.2
Rumania.....	1.1	1.1	1.0	1.1	0.9	1.2	1.5	2.2	2.2	2.8	2.9
Poland.....	2.5	2.1	1.5	1.2	1.1	0.9	1.1	1.1	1.2	2.0	2.0
Jugoslavia.....	1.1	1.4	1.0	0.8	0.7	0.7	0.9	1.6	2.3	2.2	2.7
Bulgaria.....	0.3	0.2	0.3	0.4	0.4	0.5	0.9	0.9	1.2	1.1	1.2
Others.....	15.4	14.6	12.6	11.9	14.0	16.4	18.4	21.3	22.6	26.2	23.6
Total exports.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Statistisches Reichsamt, *Statistisches Jahrbuch für das deutsche Reich, and Monatliche Nachweise über den auswärtigen Handel.*

TABLE 18.—IMPORTS FROM PRINCIPAL COUNTRIES, 1929-1939
Value in Millions of Reichsmarks

	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939 (Jan.- March)
United States	1,790	1,306	791	591	482	372	240	232	282	402	74
Netherlands	700	560	383	273	232	264	196	168	216	196	47
Russia	435	436	303	270	194	209	215	93	65	49	6
Great Britain	865	639	453	258	238	295	256	263	368	283	76
Italy	443	365	268	181	166	184	187	208	221	244	71
France	641	518	341	189	184	176	154	98	155	141	35
Czechoslovakia	480	359	243	139	121	162	121	111	141	130	84
Belgium	447	324	222	146	138	161	126	138	198	196	50
Argentina	744	403	208	191	149	151	142	118	295	217	35
British India	623	428	280	158	153	134	121	142	169	163	46
Sweden	350	304	158	95	102	133	152	191	212	261	57
Dutch Indies	360	262	163	122	111	131	119	112	122	130	35
China	370	297	215	177	153	121	102	113	94	179	49
Switzerland	317	255	164	92	82	116	114	106	94	103	31
Australia	313	205	121	92	103	105	35	42	18	54	13
Denmark	370	296	182	122	104	101	118	154	158	174	53
Spain	251	210	145	98	86	99	118	97	101	125	43
Brazil	214	155	123	81	68	77	176	131	186	212	46
Norway	143	106	61	51	72	68	93	87	91	98	26
Austria	201	181	113	65	57	66	71	76	93	...	...
Hungary	89	82	55	36	34	63	77	93	114	109	37
Rumania	211	236	102	74	46	59	79	92	180	141	25
Poland	338	236	111	53	55	53	59	57	70	98	35
Yugoslavia	60	74	40	29	33	36	61	75	132	109	28
Bulgaria	51	58	48	34	31	33	41	57	72	81	16
Others	2,650	2,098	1,434	1,044	1,009	1,172	986	1,164	1,601	1,538	452
Total imports	13,446	10,393	6,727	4,666	4,203	4,451	4,159	4,218	5,468	5,433	1,470

TABLE 18.—*Concluded*
Percentage of Total Imports from Principal Countries

	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939 (Jan.- March)
United States	13.3	12.6	11.8	12.7	11.5	8.4	5.8	5.5	5.2	7.4	5.0
Netherlands	5.2	5.4	5.7	5.0	5.3	5.9	4.7	4.7	3.9	3.6	3.2
Russia	3.2	4.2	6.5	3.8	5.3	4.7	5.2	6.2	1.2	0.9	0.4
Great Britain	6.4	6.1	6.7	5.5	5.7	4.6	6.2	6.2	5.6	5.2	5.2
Italy	3.3	3.5	4.0	3.9	4.0	4.1	4.5	4.8	4.0	4.5	4.8
France	4.8	5.0	5.1	4.1	4.4	4.0	3.7	2.3	2.0	2.6	2.4
Czechoslovakia	3.6	3.5	3.6	3.0	2.9	8.6	2.9	2.7	2.6	2.4	5.7
Belgium	3.3	3.1	3.3	3.1	3.3	3.6	3.0	3.8	3.6	3.6	3.4
Argentina	5.5	3.0	3.1	4.1	3.0	3.4	3.4	2.8	5.4	4.0	2.4
British India	4.6	4.1	4.2	3.4	3.7	3.0	2.9	3.4	3.1	3.0	3.1
Sweden	2.6	2.9	2.4	2.0	2.4	3.0	3.7	4.5	4.2	4.8	3.9
Dutch Indies	2.7	2.5	2.4	2.6	2.7	3.0	2.9	2.7	2.2	2.4	2.4
China	2.8	2.6	3.2	3.8	3.6	2.7	2.5	2.7	1.7	3.3	3.3
Switzerland	2.4	2.5	2.4	2.0	2.0	2.6	2.7	2.5	1.7	1.9	2.1
Australia	2.3	2.6	1.8	2.0	2.5	2.4	0.8	1.0	1.4	1.0	0.9
Denmark	2.8	2.8	2.7	2.6	2.5	2.3	2.9	3.7	2.9	3.2	3.6
Spain	1.9	2.0	2.2	2.1	2.1	2.2	2.8	2.3	1.9	2.3	2.9
Brazil	1.6	1.5	1.8	1.7	1.6	1.7	4.3	3.1	3.4	3.6	3.1
Norway	1.0	1.5	0.9	1.1	1.5	1.5	2.3	2.1	1.7	1.8	1.8
Austria	1.5	1.8	1.7	1.4	1.4	1.5	1.7	1.8	1.7	...	...
Hungary	0.7	0.8	0.8	0.8	0.8	1.4	1.9	2.2	2.1	2.0	2.5
Rumania	2.3	2.3	1.5	1.6	1.1	1.3	1.9	2.2	3.3	2.6	1.7
Poland	2.5	2.3	1.7	1.3	1.1	1.2	1.4	1.4	1.2	1.8	2.4
Yugoslavia	0.4	0.7	0.6	0.6	0.8	0.8	1.5	1.8	2.4	2.0	1.9
Bulgaria	0.4	0.6	0.7	0.7	0.8	0.8	1.0	1.4	1.3	1.5	1.1
Others	19.6	20.0	22.2	22.2	23.6	26.3	23.7	27.4	29.4	28.3	30.8
Total imports	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Statistisches Reichsamt, *Statistisches Jahrbuch für das deutsche Reich*, and *Monatliche Nachweise über den auswärtigen Handel*.

TABLE 19.—SHARE OF DIFFERENT GROUPS OF COUNTRIES IN THE FOREIGN TRADE OF GERMANY*
Percentage Distribution Since 1932*

Year	I.—III Payment and clearing agreements countries				I. Payment Agreements				II. Clearing Agreements with countries having no exchange control			
	I-III		IV-V		a		b		c		b	
	Payment and clearing agreements countries		Other countries		Free foreign exchange surplus for Reichsbank		Im-ports I : I		Special sort of agree-ment		Total	
	Import	Export	Import	Export	Import	Export	Import	Export	Import	Export	Import	Export
1932.....	50.3	70.0	49.7	30.0
1933.....	51.1	66.9	49.9	33.1
1934.....	63.1	69.8	36.9	30.2
1935.....	+ 6.1	+ 4.6 ²	- 6.1	- 4.3 ²
1936.....	+ 10.3	+ 11.0 ³	- 8.6	- 12.2 ³	9.7	13.5	0.2	0.3	1.6	1.0	11.5	14.8
1937.....	76.1 ⁴	80.8	23.9	19.2	10.3	12.9	0.2	0.3	1.4	1.2	11.9	14.4
1938.....	+ 2.4	+ 1.3 ⁵	- 1.9	- 1.2 ⁵	9.9	12.4	0.2	0.8	3.1	1.4	14.2	14.6
1939.....	77.6	84.0	22.4	16.0	+ 0.1	+ 0.6	+ 1.2	+ 2.0	+ 2.1	+ 0.9
1940.....	- 1.5	- 1.9 ⁷	- 0.2	- 0.1 ⁸	13.3	15.6	1.7	1.3	3.6	2.0	18.6	18.9
1941.....	+ 3.9	+ 4.4 ⁹	+ 0.2	+ 0.2	+ 4.1	+ 4.6 ^{8,9}
1942.....
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* + is the share of those countries, with whom a new agreement took effect in the preceding year.

¹ — is the share of those countries who ceased to belong to the group in the preceding year.

² Payment agreements in the old manner till 1934 (Sweden-Clause Treaties). ³ South-American countries. ⁴ Great Britain, Eire, South-Africa, Poland and Danzig, Iceland, Iran. ⁵ Including the Russian share, that fell from 5.2 per cent to 2.2 per cent. ⁶ Canada, Syria-Libanon, Manchukuo, Lithuania, Afghanistan. ⁷ Estonia. ⁸ Austria. ⁹ New Zealand. ¹⁰ Including Iran since 1935. ¹¹ Since 1937.

Source: *Supplement to the Weekly Report of the German Institute of Business Research*, May 23, 1939.

2. Clearing countries with no foreign exchange control such as:
 - a. countries where considerable importance was accorded to the capital transfer included in the clearing, and
 - b. countries where no capital transfer, or only a small one, had to be made in the clearing.
3. Clearing countries having official foreign exchange control such as:
 - a. European countries, excluding southeastern Europe;
 - b. Southeastern Europe, Afghanistan, and Iran;
 - c. South America.
4. Countries with whom ASKI arrangements had been set up to regulate a portion of the trade, a remaining portion being carried on by way of private barter or free foreign exchange payments. Such arrangements were with:
 - a. Countries having foreign exchange control;
 - b. Countries not having foreign exchange control.
5. Cash countries, all having foreign exchange control, with whom no trade can be carried on through ASKI accounts or private barter (since 1937).

Changes which occurred in the trade between Germany and countries falling into the above classification may be observed in Tables 19 and 20.

By 1930 clearing and payment agreements dominated German trade. The share of countries with these agreements in German imports rose from 50.3 per cent in 1932 to 77.6 per cent in 1938, while in exports the share of such countries rose from 70 per cent in 1932 to 84 per cent in 1938.¹⁴ Trade with countries like the United States, Canada, and Australia with whom clearing could not be arranged was not very favorable. Of the clearing countries, the development was definitely unfavorable only in the case of France, Holland, and Switzerland (Group 2, a), all three of which had formerly been most important in German trade. Southeastern European countries (Group 2, b, c) most of which had adopted some form of foreign exchange control and whose general economy complemented that of Germany became increasingly important in German trade. Trade with countries with ASKI agreements also increased. Since Germany tended to import heavily from ASKI countries, the accumulation of unpaid balances in Germany led to a refusal on the part of Brazil to permit the further sale of staples to Germany in 1938. Attempts on the part of the United States to woo South American markets and goodwill with liberal credits caused some concern in Germany as did the Anglo-American trade agreement.

It is difficult to say to what extent the development of trade connections in southeast Europe has been the result of deliberate political

¹⁴Supplement to the *Weekly Report of the German Institute of Business Research*, May 23, 1939: "The Position of Clearing Agreements in German Foreign Trade."

EFFECTS OF GERMAN CONTROL

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	Imports	Exports	Imports (1929 = 100)				Exports (1929 = 100)				Share in total German	
			Imports (Millions of Reichsmarks)				Exports (Millions of Reichsmarks)				Imports	Exports
			1929	1935	1936	1937	1938 ¹	1935	1936	1937	1938 ¹	
111. Clearing agreements with countries with foreign exchange control (Concluded)												
b. The Balkan countries												
Bulgaria.....	51.2	44.7	81	113	140	159	89	107	153	127	1.5	1.1
Greece.....	103.7	76.8	56	66	74	90	64	83	147	146	1.7	2.1
Yugoslavia.....	60.9	152.6	101	124	217	177	24	51	88	77	2.0	2.2
Rumania.....	211.0	164.1	38	44	85	67	39	63	79	90	2.6	2.8
Hungary.....	89.3	146.8	87	105	128	123	43	57	75	75	2.1	2.1
Turkey.....	75.6	72.5	124	157	129	169	93	110	153	205	2.1	2.0
Iran.....	30.6	17.0	50	75	110	126	79	295	272	..	0.0	0.1
Afghanistan ².....	.....	.....	..	..	..	..	..	..	..	..	0.03	0.1
c. South American countries												
Argentina.....	744.7	371.3	19	16	40	29	26	26	40	40	4.0	2.8
Brazil.....	214.9	210.2	82	61	87	99	56	63	84	77	3.1	3.1
Chile.....	121.7	99.5	43	48	67	74	32	50	57	61	1.7	1.1
Colombia.....	27.6	60.8	75	150	163	168	46	75	54	68	0.9	0.8
Uruguay.....	40.8	38.5	51	52	58	93	31	43	62	93	0.7	0.7

Other Countries

IV. "ASKI" Countries												
a. With foreign exchange control ¹⁴												
thereof: Central and South American countries ¹⁴	52.6	37.2	38	51	83	72	38	66	85	80	0.7	0.6
Japan.....	43.3	244.8	48	55	59	58	34	31	48	38	0.5	1.7
b. Without foreign exchange controls												
thereof: Central and South American countries ¹⁵	326.8	145.6	33	39	50	48	54	85	114	92	2.9	2.5
British colonies in Africa.....	220.0	53.0	34	50	64	47	43	64	82	57	1.9	0.6
V. "Cash" Countries												
No ASKI transactions and no private compensations allowed since 1937; all countries without foreign exchange control ¹⁶ thereof:												
Canada.....	303.1	84.8	4	6	..	..	27	41	..	..	1.3	0.5
United States of America ¹⁷	1,799.4	991.1	13	13	16	23	17	17	21	15	7.4	2.8
Australia ¹⁸	313.6	84.5	11	14	25	17	30	41	48	47	1.0	0.7
New Zealand.....	27.3	12.0	16	25	37	..	33	46	61	..	0.2	0.2
British India.....	623.7	220.4	19	23	27	23	50	55	67	50	3.0	2.1
China, including Manchukuo and Hongkong ¹⁹	370.7	185.1	38	31	43	48	52	72	98	77	3.2	2.7

¹⁴Old Reich. ¹⁵Took effect August 1, 1935. ¹⁶Took effect August 1, 1937. ¹⁷For 1929 separate figures not reported. ¹⁸Took effect July 1, 1936. ¹⁹Up to 1937 reported under China. ²⁰Since 1937 reported under Denmark. ²¹Up to July 31, 1937, see notice 3. ²²Import control of Denmark is very light. ²³Since 1937 clearing agreement not with the Spanish state but only with national Spanish banks. ²⁴Since 1937; 1929 not reported. ²⁵Portuguese colonies, Japan, Bolivia, Costa Rica, Ecuador, Honduras, Nicaragua, Paraguay. ²⁶British colonies in Africa, Palestine, Iraq, San Domingo, Guatemala, Haiti, Mexico, Peru, Venezuela, El Salvador. ²⁷Egypt, Sudan, India, British Malaya, Ceylon, China, Siam, Cuba, Panama, United States of America, Philippines, Australia, New Zealand (up to 1937), Canada (up to 1936). ²⁸For imports of cotton and copper special system of accounts (*Inlandskontoverfahren*). ²⁹For wool and hides a special ASKI is used.

Source: *Weekly Report for the German Institute of Business Research*, May 23, 1939, p. 54.

TABLE 21.—SHARES OF THE GREAT POWERS IN THE FOREIGN TRADE OF THE BALKANS, 1926-1937

Percentage of Total Balkan Exports and Imports

Year	Germany	Italy	Germany and Italy	Great Britain	France	United States	Great Britain, United States of America, France	Five Great Powers
Exports								
1926.....	16.6	20.3	36.9	7.1	6.0	6.6	19.7	56.6
1927.....	18.0	16.5	34.5	7.1	5.5	6.4	17.0	51.5
1928.....	20.4	17.6	38.0	7.6	6.3	7.2	21.1	59.1
1929.....	22.0	18.0	40.0	6.6	6.4	5.3	18.3	58.3
1930.....	19.0	19.0	38.0	8.5	7.3	4.6	20.4	58.4
1931.....	14.6	16.9	31.5	8.2	8.1	4.8	21.1	52.6
1932.....	14.7	15.8	30.5	11.6	8.2	4.4	24.2	54.7
1933.....	16.9	13.9	30.8	11.4	8.2	4.5	24.1	54.9
1934.....	21.4	13.1	34.5	9.6	6.6	4.1	20.3	54.8
1935.....	26.7	12.3	39.0	8.5	3.3	6.6	18.4	57.4
1936.....	29.3	4.2	33.5	11.7	4.7	5.2	21.6	55.1
1937.....	28.1	6.9	35.0	9.5	4.8	7.5	21.8	56.8
Imports								
1926.....	16.2	12.8	29.0	10.7	9.1	5.4	25.2	54.2
1927.....	16.6	10.8	27.4	10.8	8.8	6.6	26.2	53.6
1928.....	17.2	9.9	27.1	11.0	8.0	7.0	26.0	53.1
1929.....	18.3	9.6	27.9	10.1	7.2	8.1	25.4	53.3
1930.....	19.6	10.2	29.8	9.9	7.7	6.6	24.2	54.0
1931.....	19.0	10.7	29.7	11.0	7.5	5.6	24.1	53.8
1932.....	18.7	11.4	30.1	12.1	8.7	6.2	27.0	57.1
1933.....	19.4	11.4	30.8	13.7	7.2	4.5	25.4	56.2
1934.....	21.8	8.8	30.6	13.9	7.5	6.4	27.8	58.4
1935.....	30.7	6.6	37.3	11.0	4.1	6.1	21.2	58.5
1936.....	40.2	1.3	41.5	10.4	3.5	7.2	23.1	64.6
1937.....	38.2	5.7	43.9	11.3	3.3	6.7	21.3	65.2

Source: Pertot, *op. cit.*, p. 369.

strategy and to what extent it has been the result of failure to make satisfactory commercial connections elsewhere. The increased participation of Germany in the total trade of the principal Balkan countries, as compared with the participation of other major powers, may be seen in Table 21.¹⁵ It will be observed that Germany absorbed an increasingly greater proportion of Balkan exports and provided a greater share of their imports in the period 1926-1938, and that the increase in trade with the Balkans came at the expense of Italy. Principal commodities imported from the Balkan countries included wood, fruit, mineral oil, cotton, wool, and hemp.

The absorption of Austria in 1938 increased German participation in the Balkan trade. However, it must be remembered that the part which the Balkan countries played in total German trade before the outbreak of the present war was not great. It has often been implied that Germany

¹⁵See Pertot, Vladimar, "Einige Entwicklungstendenzen im Aussenhandel der Blakanländer," in *Weltwirtschaftliches Archiv*, 49. Band, Heft 2, March, 1939, pp. 353-381, for a detailed account of recent changes in Balkan foreign trade.

fostered the dependency of the Balkan countries by buying up large shares of their total exports at very favorable prices in anticipation of becoming a monopsonist. It is true that Germany bought Balkan materials at higher than world prices, but the prices paid were usually lower than those prevailing in Germany. Occasionally it was possible for the Germans to spoil the market for Balkan exports by re-exporting certain Balkan materials at a loss in order to acquire *devisen*. Germany was also able at times to unload certain commodities on the Balkans in order to liquidate clearing surpluses.¹⁶

Trade with England and France and their respective empires was severed at the outbreak of war in September, 1939. An Allied blockade prevented the importation of such vital materials as textile raw materials, hides, wood, rubber, phosphates, mineral oils, fats, non-ferrous metals, and other items, and stopped the export of certain materials through the sale of which Germany was able to acquire *devisen*. Though Germany was less dependent upon foreign materials in 1939 than she was in 1914, commerce will have to be expanded toward eastern and southeastern Europe in order to make up deficiencies. This expansion may, as in the case of Norway, result in an extension of the theater of war. German imports from these countries will doubtless be conditioned by her ability to spare certain materials for export, and the willingness of foreign countries to spare essential war materials. The success of English politico-commercial diplomacy in the Balkans and expansionist tendencies of Russia may be another deciding factor. Difficulties of obtaining materials from eastern and southeastern countries were revealed by the net liquidation of clearing accounts to the favor of these countries during the early months of the war. Ability of Balkan countries to supply materials vital to Germany will be further affected by the success of Germans in making arrangements for the fuller exploitation of potential raw materials and resources.¹⁷

CONCLUSION

At what cost did Germany maintain a "goldless" gold standard, carry out the reorganization of agriculture and the development of "ersatz" industries through *devisen* restrictions, tariffs, quotas, and import Control Boards? If the assumption be made that otherwise Germany would have enjoyed the full benefits of international specialization and exchange without feeling any of the insecurities therewith connected, Germany sacrificed a potentially higher standard of living by adopting various measures of control over international economic relations. However, in

¹⁶For an interesting account of German trade methods see "Germany's Trade Offensive," in *London Economist*, November 5, 1938, pp. 262-267.

¹⁷The economic potentialities of the Balkans are discussed in Pertot, *op. cit.*

the light of the dynamic character of post-war international developments, and in view of the sensitivity of the German economy to disturbances in the world economy, this assumption cannot be made freely.

The effect of control measures must be measured in the light of what Germany expected to achieve through them, not in terms of economic criteria requiring an initial assumption of perfect or near perfect international economic equilibrium. If the goal selected by Germany was full employment in an economy isolated from international disturbances, effectiveness of control measures in accomplishing that end, rather than the economic effects, should be measured.¹⁸ Autarchy, coupled with a policy of public works and rearmament, brought with it the "blessing of voluntary scarcity," namely, full employment, rather than the "scourge of plenty," market surfeit and idleness. Furthermore, the successive intensification of measures of control precluded the necessity of violent adjustment in the transition to a war economy in the fall of 1939. The German economy had become an effective instrument for total war. The standard of living realized under autarchy, though short of a standard that might have been realized under full participation in a world economy, was not a starvation standard, despite the shortage of particular items such as fats, oils, butter, and eggs. Autarchy as a national philosophy was not the exclusive invention of the National Socialists.

If within Germany the control measures facilitated credit inflation, public works, rearmament, full employment, and general business recovery and in the process rendered the standard of living¹⁹ less high than it would have been under full and active participation in the world economy, what effects did the measures of control have upon the world economy? Among consequences claimed are the breaking of international financial faith, reduction of volume and distortion of the direction of world trade, the destruction or disturbance of industries contributing to world trade, establishment of an economic liaison with the Balkans so strong as to border on a political liaison, and the disturbance of world peace through the creation of a military machine capable of challenging the Allies.

Still, it must be remembered that German controls over international economic relations were in many instances, consequences, rather than causes of, general international disequilibria. Restrictions in other countries had preceded those in Germany, and had necessitated German restrictions. Germany was not so much the source of international economic disturbances as the medium through which shocks were transmitted to other countries.

¹⁸See Appendix I for indexes of general business activity, and figures for unemployment from 1924 to 1940.

¹⁹See Appendix IV for a comparison of the German cost of living from September, 1931, to October, 1936, with other countries.

In certain respects the control measures were introduced to meet an emergency. To that extent they were defensible. However, no emergency is removed until the factors giving rise to it have been corrected. It is impossible to cure a disease by dosing the symptoms. A sounder method is to get at the basic difficulty. The basic difficulty was in no small degree due to the problem of international indebtedness and to the factors which prevented the elimination of that indebtedness—namely, restrictions on the free movements of goods and services. It is not unnatural that there should be international debts, particularly if they arise in the natural course of world economic development as a consequence of the flow of capital to those points where capital is most productive. However, it is unnatural that a country whose economic structure has been adjusted to a given capital-ownership relationship with the rest of the world should be stripped suddenly of part of its former possessions of land and capital and then forced to make still further contributions out of current income in the form of reparations. It need not be implied that the Peace Treaty alone occasioned a shift in international indebtedness, for the war, too, made debtors of former creditors, and creditors of former debtors, almost overnight.

Were it possible to retrace steps and rectify some of the politico-economic blunders of the decades since Versailles, some of the basic problems might be reached, the symptoms of which the countries of the world have attempted to solve through restrictions upon the free movements of goods and services between nations. It is paradoxical that nations attempt to relieve international economic disturbances, caused in part by the restriction on the free movement of goods and services, by still further measures of control over international economic relations—that nations seek through war the economic security which war inevitably destroys.

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APPENDIXES

APPENDIX I

INDEXES OF ECONOMIC CONDITIONS IN GERMANY, 1924-1940

	Imports	Exports	Production index Base = 1928	Shares index Base = 1924-1926	Whole- sale prices Base = 1913	Unem- ploy- ment (ooo omitted)	Cost of living Base = 1913-1914	Gold and Devisen
1924—Average.....	757	546	69.0	97.7	127.6	701	127.6	.....
1925—Average.....	1,030	774	81.3	93.34	141.8	658	139.8	1,475
1926—Average.....	830	868	79.6	108.96	134.4	2,028	141.2	2,001
1927—Average.....	1,186	900	102.6	158.01	137.6	1,336	147.6	2,130
1928—Average.....	1,167	1,023	100.0	148.41	140.0	1,376	151.7	2,490
1929—Average.....	1,121	1,124	101.4	133.88	137.2	1,918	154.0	2,601
1930—January.....	1,305	1,092	93.4	119.99	132.3	3,218	152.4	2,782
February.....	982	1,026	91.7	120.58	129.3	3,336	151.2	2,872
March.....	884	1,104	94.3	119.03	126.4	3,041	149.5	2,990
April.....	889	977	94.0	122.18	126.7	2,787	148.2	2,996
May.....	830	1,096	91.5	121.68	125.7	2,635	147.6	3,006
June.....	814	910	87.7	116.44	124.5	2,641	148.2	3,144
July.....	909	951	81.8	110.02	125.1	2,765	149.8	2,974
August.....	795	971	83.7	103.29	124.29	2,883	149.9	3,050
September.....	736	1,001	82.7	102.26	122.8	3,004	147.7	2,945
October.....	834	1,073	84.5	95.78	120.2	3,252	146.2	2,506
November.....	734	931	82.0	92.29	120.1	3,699	144.6	2,707
December.....	681	903	78.3	87.30	117.8	4,384	142.6	2,825
1931—January.....	715	775	66.2	81.75	115.2	4,887	141.1	2,588
February.....	620	778	66.2	85.55	114.0	4,972	139.4	2,534
March.....	584	867	70.0	91.08	113.9	4,744	138.1	2,589
April.....	679	818	74.3	92.43	113.7	4,358	137.4	2,584
May.....	599	783	73.8	83.02	113.3	4,053	137.0	2,647
June.....	607	747	75.0	75.90	112.3	3,954	137.4	1,968
July.....	503	827	73.8	76.82	111.7	3,990	137.2	1,685
August.....	454	803	69.8	.....	110.2	4,215	135.0	1,759
September.....	448	835	68.2	59.96	108.6	4,355	134.4	1,723
October.....	483	879	63.9	.....	107.1	4,623	133.5	1,373
November.....	485	749	62.6	.....	106.6	5,060	132.4	1,271
December.....	491	738	58.4	.....	103.7	5,668	130.8	1,235
1932—January.....	440	542	52.4	.....	100.0	6,042	125.1	1,180
February.....	441	538	52.9	.....	99.8	6,128	122.6	1,149
March.....	364	527	53.5	.....	99.8	6,034	122.7	1,097
April.....	427	481	53.8	49.64	98.4	5,739	121.2	1,070
May.....	351	447	55.3	50.59	97.2	5,583	120.6	1,063
June.....	364	454	53.8	49.70	96.2	5,476	120.5	1,040
July.....	366	431	51.5	49.92	95.9	5,392	120.7	979
August.....	331	428	50.8	52.22	95.4	5,224	119.5	981
September.....	360	444	53.8	58.98	95.1	5,103	119.0	1,001
October.....	398	482	56.6	57.19	94.3	5,109	118.7	1,008
November.....	393	475	58.2	58.22	93.9	5,355	118.5	1,008
December.....	423	491	55.8	61.75	92.4	5,773	118.2	991
1933—January.....	368	390	52.7	64.57	91.0	6,014	117.2	995
February.....	347	374	54.2	64.75	91.2	6,001	116.5	994
March.....	362	426	57.1	70.30	91.1	5,599	116.1	920
April.....	321	382	58.5	72.79	90.7	5,331	115.9	650
May.....	333	422	59.0	73.26	91.9	5,039	117.6	544
June.....	357	384	60.9	71.57	92.9	4,857	118.0	414
July.....	360	385	61.1	68.46	93.9	4,464	118.0	377
August.....	347	413	62.9	66.19	94.2	4,124	117.8	429
September.....	337	432	65.3	62.48	94.9	3,849	118.5	474
October.....	347	445	67.8	62.11	95.7	3,745	119.4	485
November.....	351	394	69.0	63.98	96.0	3,715	120.2	482
December.....	374	424	68.8	67.36	96.2	4,059	120.6	473
1934—January.....	372	350	71.0	70.17	96.3	3,773	120.4	465
February.....	378	343	75.0	73.88	96.2	3,373	120.2	415
March.....	398	401	80.5	76.08	95.9	2,798	119.9	340
April.....	398	316	79.4	75.02	95.8	2,609	119.8	301
May.....	380	337	81.2	73.27	96.2	2,529	119.6	235
June.....	375	339	81.2	76.16	97.2	2,481	120.5	167
July.....	363	321	82.4	77.74	98.9	2,426	121.8	151
August.....	342	334	81.5	80.00	100.1	2,398	122.3	152
September.....	352	350	84.9	83.12	100.4	2,282	121.6	152
October.....	349	366	84.7	83.22	101.0	2,268	122.0	158
November.....	346	358	84.7	80.37	101.2	2,353	122.3	156
December.....	399	354	84.3	79.80	101.0	2,605	122.2	157

APPENDIX I—*Concluded*

	Imports	Exports	Production index Base = 1928	Shares index Base = 1924-1926	Whole- sale prices Base = 1913	Unem- ploy- ment (ooo omitted)	Cost of living Base = 1913-1914	Gold and Devisen
1935—January	404	299	85.0	83.50	101.1	2,974	122.4	158
February	359	302	86.0	86.40	100.9	2,764	122.5	158
March	353	365	92.0	87.8	100.7	2,402	122.2	158
April	359	340	94.7	89.3	100.8	2,233	122.3	159
May	333	337	96.5	91.0	100.8	2,019	122.8	160
June	318	318	93.7	93.7	101.2	1,877	123.0	163
July	330	359	95.6	94.7	101.8	1,754	124.3	173
August	318	368	96.5	95.5	102.4	1,706	124.5	173
September	318	373	103.4	92.7	102.3	1,714	123.4	173
October	336	391	102.1	91.0	102.8	1,829	122.8	166
November	346	397	101.1	89.5	103.1	1,984	122.9	167
December	373	416	97.5	89.3	103.4	2,508	123.4	161
1936—January	363	382	93.5	91.8	103.6	2,520	124.3	82*
February	334	374	94.9	93.8	103.6	2,515	124.3	77
March	356	379	101.4	93.3	103.6	1,937	124.2	77
April	361	366	105.7	96.2	103.7	1,763	124.3	75
May	337	372	109.0	99.3	103.8	1,491	124.3	75
June	360	371	109.5	101.6	104.0	1,315	124.5	77
July	346	395	111.1	103.1	104.2	1,170	125.3	77
August	346	409	111.4	101.8	104.6	1,098	125.4	75
September	336	412	114.2	100.1	104.4	1,035	124.4	69
October	356	432	113.8	106.0	104.3	1,076	124.4	70
November	356	422	113.7	106.6	104.4	1,197	124.3	72
December	367	457	...	105.4	105.0	1,479	124.3	72
1937—January	337	416	107.0	106.6	105.3	1,853	124.5	73
February	347	407	108.1	108.1	105.5	1,611	124.8	73
March	409	463	113.5	109.3	106.1	1,245	125.0	73
April	481	493	118.5	110.6	105.8	961	125.1	74
May	448	457	119.6	111.8	105.9	776	125.1	74
June	505	481	119.1	112.8	106.1	649	125.3	75
July	500	530	118.9	114.6	106.4	563	126.2	75
August	482	541	121.1	115.7	106.7	509	126.0	76
September	462	494	124.9	114.8	106.2	469	125.1	76
October	485	544	125.6	113.2	105.9	502	124.8	76
November	483	533	127.2	112.0	105.5	573	124.9	76
December	531	552	121.7	111.3	105.5	995	124.8	76
1938—January	479	445	116.2	113.8	105.6	1,052	124.9	76
February	449	427	121.0	113.6	105.7	946	125.2	76
March	455	467	124.6	113.9	105.8	508	125.5	76
April	477 ¹	454 ¹	125.6 ²	114.8	105.6	821 ³	125.6	76
May	518	469	128.8	112.7	105.4	689	125.9	76
June	486	441	126.9	110.5	105.6	567	126.0	77
July	472	474	128.7	107.9	105.6	369	126.8	76
August	510	446	129.4	102.2	105.9	231	126.5	76
September	493	442	133.3	103.2	105.9	256	125.2	76
October	528	490	133.5	107.5	105.7	271	124.9	76
November	524 ³	455 ³	137.1	106.0	106.1	...	125.0	77
December	542	504	130.9	103.1	106.3	816 ⁶	125.3	76
1939—January	472	441	130.2	103.9	106.5	639	125.8	76
February	472	411	132.6	104.8	106.5	451	125.7	76
March	504	481	135.2	102.9	106.6	322	126.0	77
April	403	437	136.1	103.5	106.4	216	125.9	77
May	440 ⁴	485 ⁴	138.9	102.6	106.5	152	126.1	77
June	443	538	136.9	100.8	106.8	107	126.5	77
July	439	501	...	100.0	107.0	74	127.3	77
August .....	...	...	...	101.6	107.1	...	...	77
September .....	...	...	...	101.1	106.9	...	...	77
October .....	...	...	...	100.6	107.1	...	...	77
November .....	...	...	...	103.0	107.4	126	...	77
December .....	...	...	...	106.6	107.6	128	...	78

*The right of the Four Great Banks in Germany to issue notes expired at the end of December, 1935. Reserve figures from January, 1936 on are those of the Reichsbank alone.

¹Excluding former trade with Austria after March, 1938.

²Austrian production included after March, 1939.

³Trade with Sudetenland excluded after October, 1938.

⁴Trade with Bohemia and Moravia excluded after April, 1939.

⁵Austrian unemployment included in total after March, 1938.

⁶Sudeten unemployment included in total after November, 1938.

APPENDIX II

ORIGINS AND METHODS OF UTILIZATION AND REALIZATION OF BLOCKED MARKS¹

The following is a list of different sorts of Blocked Reichsmark Accounts in Germany with a short account of how they were created and how they could be utilized. The list is not exhaustive.

1.—*Free Reichsmark Account (Freie Reichsmark).*

These were accounts created after the 15th of July, 1931, at a German bank by a foreigner in his name from the proceeds of the sale of foreign currency, which he himself had paid in, or which had been paid in by another foreigner, or by a resident in Germany with the permission of the Foreign Exchange Authorities.

The foreign owner could freely dispose of such an account within Germany. The exchange of a free reichsmark credit into foreign currency needed the permission of the Foreign Exchange Authorities.

2.—*Credit Blocked Accounts (Kreditsperrmark).*

These were created by

a. proceeds from the sale of inland property;

b. proceeds from repayments of loans, mortgages, etc., which were granted by a foreigner before the 16th of July, 1931 (in the case of a foreign bank before the 9th of October, 1931), and which were not governed by a Standstill Agreement. Credit Blocked Accounts could, without special permission, be used to purchase German reichsmark securities (with certain exceptions, e.g., Reichsbank Shares, Young Loan, Mortgage Bonds).

Every other withdrawal from a Credit Blocked Account needed the written approval of the competent Foreign Exchange Office which was, as a rule, given for the following purposes:

a. For long-term investment in Germany, such as on mortgages, purchase of real property, etc. If the mortgage were repaid or the property sold the proceeds had to be paid back into a Credit Blocked Account again.

b. To pay expenses of a non-business journey to Germany of the original holder of the account, members of his family and suite up to a maximum of 2 thousand Rm per person per month. The journey could only be for holiday or health reasons and the amount released had to be used for traveling expenses within Germany. Credit Blocked Accounts could be used for expenses of a stay in Germany for study purposes but not for business purposes.

c. Gifts by the original holder of the accounts for personal assistance of relatives or for subscriptions to social, religious, or other bodies, or for appropriate grants to persons entitled to assistance in Germany.

d. Payment to German residents of costs connected with the creation or administration of the blocked account (court fees, legal charges, bank charges etc.).

e. Payment of taxes of the original holder of the account.

f. For the payment of 25 per cent of the invoice price of new orders of German goods or for services of firms in Germany for the account of the original holder of the account. The remaining 75 per cent of the invoice had to be paid in foreign currency or free reichsmarks. Permission to use blocked credits in this way was not given for goods to be exported to the United Kingdom, Finland, France, Italy, the Netherlands, Austria, Rumania, or

¹Adapted from material appearing in DOOT, *Economic Conditions in Germany*, to March, 1936, pp. 31 ff.

Switzerland, owing to certain provisions in the Payment of Clearing Agreements which were entered into with these countries.

3.—*Note Blocked Account (Notensperrmark).*

These were created by reichsmark notes which were sent to Germany with instructions to pay them into a blocked account. Under a law dated 6th of December, 1935, it was forbidden to bring reichsmark notes into Germany from abroad to an amount exceeding 30 Rm, except for payment into such a blocked account.

These Note Blocked Accounts could, without permission, be used to purchase German securities (with certain exceptions). With the permission of the Foreign Exchange Authorities these accounts could be used to a limited extent as follows:

a. For loans on mortgage, or loans to residents in Germany or participation in German firms or Companies, in each case for at least five years;

b. For part of the purchase price of real property. Dealings in the property could only be effected by permission of the Foreign Exchange Authorities.

Note Block Accounts were, in principle, on the same footing as Credit Blocked Accounts held by a person other than the original holder. If real property were purchased with these blocked mark notes, 50 per cent of the price had to be paid in foreign currency, and in the case of new buildings at least 25 per cent of the costs had to be provided in foreign currency.

4.—*Old Credits (Altguthaben).*

Old Credits were bank deposits of a foreigner in reichsmark or foreign currency which existed prior to the 16th of July, 1931, and which were not the subject of a Standstill Agreement.

These blocked accounts could be utilized in the same manner as Credit Blocked Accounts (see Paragraph 2 above), except that only 25 per cent of the amount standing in the account on the 1st of April, 1932, could be dealt with unless the bank at which the account was held gave permission for the utilization of a further 25 per cent. At intervals of at least six months 25 per cent of the balance due on April 1, 1932, could be utilized in the manner set out in Paragraph 2, provided the bank gave its approval.

5.—*Emigrant Credit Accounts (Auswanderersperrmark).*

These were credits in a bank of a person who gave up his residence in Germany and removed abroad after August 3, 1931. Repayments of loans, payments of claims, and proceeds of sale of property which accrued after emigration were also paid into the Emigrant Credit Account. The use of such blocked accounts was limited in a similar manner to Credit Blocked Accounts under Paragraph 2 above.

6.—*Securities Blocked Accounts (Effektensperrmark).*

These arose from proceeds of sale of securities (except German Foreign Loans). Where the blocked account arose from proceeds of securities which were the property of the foreign owner on the 15th of April, 1932, it could be utilized roughly in similar manner to Credit Blocked Accounts under Paragraph 2. Security Blocked Accounts which were bought or otherwise acquired after the above-mentioned date, could not be used to purchase long-term investments other than German inland shares and securities.

7.—*Special Blocked Accounts (Sonderkonten).*

With the permission of the Foreign Exchange Authorities, interest and dividends, rents and other similar regular payments, as well as regular amortiza-

tion payments from deposits, credits, mortgages, participations in firms, or loans, could to an appropriate amount be paid into a special account in a bank authorized to deal in foreign exchange, instead of the normal payment into the Conversion Office (see below).

Special Blocked Accounts could be used, without further permission, by the foreign owner of the account for making the following payments:

a. Gifts to relatives for personal financial assistance, or to social, religious or other societies, or for an appropriate amount to persons in Germany with a proper claim to support;

b. For services rendered by German residents in connection with the creation and administration of the account or other blocked money or property in Germany (e.g., court and legal fees, bank charges, etc.).

c. Payment of taxes on the holder's capital or income in Germany;

d. Traveling expenses on a non-business holiday in Germany for the holder, members of his family and accompanying servants up to 2 thousand Rm per person per month.

The Foreign Exchange Authorities could authorize other payments within Germany but not payments for goods, nor for loans or investment in landed property or in business.

Interest and dividend payments could only be paid into a Special Account if the securities for which the interest was payable were the property of the holder of the account before the 15th of April, 1932.

8.—*Conversion Office Credits (Konversionsguthaben).*

Conversion Office Credits were created by payments of interest, dividends, regular amortization payments, rents and similar regularly recurring payments arising from deposits, credits, loans, mortgages, participations in businesses and other investments of foreigners in Germany where the capital was in Germany before the 16th of July, 1931. Payments were normally to be made by the German debtor to the Conversion Office. In respect of interest, etc. (but not amortization) payments received, the Conversion Office offered British creditors 4 per cent Funding Bonds maturing on the 1st of January, 1945, on the understanding that the acceptance of the Funding Bonds was in full settlement of any coupons, etc., funded. Where a foreign creditor did not wish to accept Funding Bonds his credit in reichsmarks remained with the Conversion Office, but earned no interest. In special cases permission could be given to use these credits for payments within Germany for taxes, non-business traveling expenses, or gifts to needy relatives.

9.—*Clearing Agreement Accounts (Verrechnungsmark).*

Germany concluded Clearing Agreements with practically every European country and many countries overseas. These agreements provided for a mutual clearing of the claims for exports. Payment in reichsmarks was made into the Reichsbank to the credit of the national bank of countries with which Clearing Agreements had been made for imports from those countries. The reichsmark credits were then used to pay German exporters for their exports to the same countries. A similar procedure was followed in the other country. Conversions between reichsmarks and the currency of the other country were made at the official rate of exchange in the case of strict clearings, but there were some exceptions where the reichsmarks were disposed of at a discount.

10.—*Foreigners' Special Accounts for Inland Payments (ASKI—Auslaender-Sonderkonten fuer Inlands-Zahlungen—ASKI-Mark).*

These accounts were opened at German banks with the permission of the Foreign Exchange Authorities in the names of foreign firms trading with Germany for the acceptance of reichsmarks in payment of exports to Germany. The foreign firms were then allowed to pay for one-third of the value of German goods which

they purchased from credits in the account on condition that the balance was paid in free foreign currency. This form of account was not permitted in Anglo-German trade, and was restricted to very small classes of goods in trade to many other countries. With certain foreign countries, however, ASKI Accounts were used as the basis of the whole mutual trade, and the ASKI-Marks were normally sold at a discount.

11.—*Register Mark Credits (Register-Mark).*

These arose out of short-term credits made by foreign banks before the 1931 crisis, which were subject to the Standstill Agreement made between the foreign bank creditors and the German bank and other debtors. These credits could, under certain conditions, be called up for payment in marks, called Register Marks. Register Mark Credits could be utilized for investment within Germany, for tourists' expenses (see below), and for certain other purposes.

12.—*Tourist Special Accounts—Register Marks—Travel Marks (Register-und Reise-Mark).*

According to regulations issued by the Reichsbank, foreign bank creditors and other authorized institutions, including foreign travel agencies, could acquire Register Marks, pay them into Tourist Special Accounts, and sell "Travel Cheques" or letters of credit drawn on these accounts to foreign travelers to Germany. The latter could cash such cheques in Germany up to an amount of 50 Rm per day; in special cases where a letter of recommendation was granted, 100 Rm per day might be drawn. Such letters of recommendation were not valid for frontier districts. Marks obtained by cashing these cheques could only be used within Germany and for the following purposes:

- a. Fares on German railways, motor traffic concerns, and inland shipping companies for journeys within Germany.
- b. Reservation of accommodation on German and foreign marine and air vessels for journeys to and from Germany.
- c. Hotel expenses, etc.

Foreigners staying in Germany for study purposes could, with special permission, draw Register or Travel Marks.

Register and Travel Marks not spent before leaving the country had to be sold to a foreign exchange bank. They could not be taken out of the country.

13.—*"Non-interest Bearing Reichsmark Trustee Credits" and "Tourist Special Account II."*

Interest payments on Dawes and Young Loans, in so far as they were not dealt with in Transfer Agreements made with different countries, could be paid into a Non-interest Bearing Account with the "Treuhandgesellschaft von 1933 m.b.H." in Berlin. Credits in this account could be used, with the permission of the Reichsbank for the following purposes:

- a. For the purchase of German bonds and shares which were quoted on a German Stock Exchange in terms of reichsmarks.
- b. For investment in long-term loans and mortgages.
- c. For the acquisition of landed property within Germany or for other property with the approval of the Reichsbank.
- d. For the payment of expenses for a temporary visit in Germany.

Claims against the "Treuhandgesellschaft von 1933 m.b.H." in Berlin were transferable. Persons or firms allowed to have a Tourist Special Account as set out in Paragraph 12 could acquire claims for interest on Dawes and Young Loans and, with the permission of the Reichsbank, have them paid into Travelers' Special Account II. Credits in this account could be used for the same purpose as the Tourist Special Account (Register Marks), with the exception that Tourist cheques could not be drawn against this account.

APPENDIX III

GERMAN BALANCE OF TRADE, 1932-1939
Value in Millions of Reichsmarks

Countries and hemisphere	1932	1933	1934	1935	1936	1937	1938	1939 (Jan-Mar.)
Europe.....	+2,147	+1,520	+628	+561	+851	+1,955	+698.7	...+6
Belgium.....	+155	+139	+75	+76	+73	+91	+50	...+6
Bulgaria.....	-14	-14	-14	-1.5	+38	+4	+23	...-1
Denmark.....	+43	+40	+30	+33	+38	+55	+31	...+6
Estonia.....	-2.5	-1.3	-0.9	-1.7	+7	+8	-6	...+6
Finland.....	+19	+211	+105	+99	+156	+157	+74	...+12
France.....	+293	+35	-23	-9	-5	+37	...	...+12
Greece.....	-35	+167	+177	+107	+142	+131	+69	...+4
Great Britain.....	+187	+61	+61	+91	+21	+60	+69	...+2
Italy.....	+42	+0.3	-4.8	-21	+2	+3	+6	...+0
Jugoslavia.....	+14	-0.3	-3.3	-3.2	-1.9	+3	-2.7	...+0
Latvia.....	+0.9	-2.4	-0.4	+4.1	-1.7	+3	-4.1	...+0
Lithuania.....	-1.1	+381	+218	+268	+227	+352.3	+350	...+59
Holland.....	+160	+12	+11	-6	+1	+28	-30	...+7
Norway.....	+49	+63	+40	+37	+32	+10	...	...+7
Austria.....	+94	+5	-23	-1.2	-0.1	+3	+7	...+7
Poland.....	+12	+13	-18	+6	+8	+13	...	...+6
Portugal.....	+11	-0.1	-8	-16	+11	-53	+6	...+4
Rumania.....	-10	+88	+64	+54	+30	+35	+7	...+14
Sweden.....	+133	+270	+179	+142	+139	+37	+102	...+21
Switzerland.....	+320	+11	+12	-13	-8	+10	-11	...-21
Spain.....	-8	-0.7	-11	+3	+7	+6	+6	...-1
Czechoslovakia.....	+110	+38	-17	-56	-39	+13	...	...+6
Turkey.....	-9	-1.6	-24	-15	-39	-3	+1	...+6
Hungary.....	+11	+4	-17	-15	-39	-3	+1	...+6
Russia.....	+355	+88	-146	-176	+35	+52	-18	...+3
Africa.....	-145	-137	-151	-138	-134	-197	-182.5	...
Egypt.....	-14	-16	-6	-6	-6	+1	...	...
British South Africa.....	-9	-13	-15	-46	-2	-30	...	...
British West Africa.....	-64	-53	-53	-42	-64	-60	...	...

APPENDIX III—Concluded

Countries and hemisphere	1932	1933	1934	1935	1936	1937	1938	1939 (Jan.-Mar.)
Asia.....	-190	-165	-164	-33	-28	+1	-96.5	.....
British India.....	-49	-67	-40	-10	-20	-21	-53	-8
China.....	-95	73	44	-7	+19	+54	-53	-25
Japan.....	+62	+60	+58	+62	+31	+91	.....	.....
Dutch Indies.....	-79	-73	-97	-84	-74	-66	-78	-23
America.....	-623	-439	-469	-261	-117	-355	-80.6	.....
United States.....	-311	-237	-215	-71	-60	-73	-35	-33
Canada.....	-32	-51	-41	+10	+16	-16	.....	.....
Argentina.....	-102	-49	-64	-45	-21	-148	-70	-2
Brazil.....	-33	+8	-3	-58	+2	-9	-49	-9
Chile.....	-15	-12	-25	-20	-9	-25	-30.2	.....
Colombia.....	+5	+9	+4	+7	+4	-12	-5.3	.....
Cuba.....	+4	+3	+3	+5	+3	+5	+2.6	.....
Mexico.....	+2	+7	+1	-4	-3	+1	-16.4	.....
Uruguay.....	-11	-10	-17	-9	-4	+4	-2.5	.....
Venezuela.....	-0.3	-0.3	-0.5	+5	+10	+19	+8	.....
Australia and Polynesia.....	-86	-104	-119	-11	-14	-46	-17.8	.....
Union of Australia.....	-72	-83	-84	-10	-8	-38	.....	.....
New Zealand.....	-13	-21	-32	-0.5	.....	.....	.....	.....
Total.....	+1,573	+668	-284	+111	+550	+458	-192.4	.....

Source: Adapted from Deutsche Bank und Disconto-Gesellschaft *Wirtschaftliche Mitteilungen*, p. 78.

APPENDIX IV

WHOLESALE PRICES AND COST OF LIVING IN GERMANY AND OTHER COUNTRIES, 1931-1936

	In domestic currency						In pounds					
	September 1931	March 1933	December 1933	July 1935	September 1936	October 1936	September 1931	March 1933	December 1933	July 1935	September 1936	October 1936
Wholesale prices												
England.....	70.4	69.2	73.3	73.3	80.3	81.6	70.4	69.2	73.3	73.7	80.3	81.6
Germany.....	79.2	66.4	70.1	74.2	76.1	76.0	84.9	94.2	104.3	123.0	123.6	127.0
Sweden.....	76.4	75.0	78.5	82.8	87.1	87.7	81.9	72.1	73.6	77.6	81.5	82.2
Belgium.....	70.2	59.2	56.9	65.0	69.8	70.7	75.3	84.0	84.6	77.6	81.6	85.0
France.....	70.1	61.8	62.4	53.6	65.3	72.6	75.2	87.7	92.8	88.9	106.1	85.9
Holland.....	64.1	50.7	54.2	52.1	54.2	50.0	68.7	71.9	80.6	86.4	88.0	78.2
Switzerland.....	75.3	63.8	64.7	63.7	68.6	73.0	80.8	90.5	96.3	105.6	111.4	86.4
Czechoslovakia.....	78.7	71.5	71.2	79.0	75.9	77.1	84.4	101.5	105.9	109.1	102.6	90.9
United States.....	74.7	63.2	74.3	83.3	85.6	85.5	80.1	88.7	70.5	81.6	82.2	84.4
Japan.....	68.1	80.7	79.9	82.0	91.4	91.2	78.2	52.8	50.7	50.9	56.4	56.3
Cost of living												
England.....	88.5	83.6	86.6	87.2	90.3	92.1	88.5	83.6	86.6	87.2	90.3	92.1
Germany.....	87.3	75.4	78.3	80.7	80.8	80.8	93.6	107.0	116.5	133.8	131.2	135.0
Sweden.....	92.9	90.6	90.6	91.8	92.9	92.4	92.9	89.8	85.0	85.9	87.0	86.5
Belgium.....	91.4	83.2	83.6	79.1	84.5	85.9	98.0	118.1	124.4	94.4	98.8	103.3
France.....	101.7	94.1	94.6	84.4	90.7	....	101.7	134.1	143.4	139.3	147.7	....
Holland.....	90.1	82.1	84.9	80.8	78.6	....	96.6	116.5	126.3	134.1	127.7	....
Switzerland.....	92.4	81.8	81.2	79.3	81.8	....	99.1	116.1	120.8	131.5	132.9	....
Czechoslovakia.....	96.0	92.7	91.5	95.4	94.4	94.7	103.0	131.5	136.1	131.8	127.8	111.8
United States.....	86.1	71.8	77.4	82.4	85.9	85.7	92.3	100.8	73.5	80.7	82.3	84.5
Japan.....	73.8	79.3	82.1	82.6	88.1	87.4	84.7	51.9	52.2	51.2	54.4	54.0

Source: Sonderbeilage zu "Wirtschaft und Statistik" herausgegeben vom Statistischen Reichsamt, *Die Weltwirtschaft*, p. 10.

APPENDIX V

GERMAN SHORT-TERM FOREIGN DEBT—END OF FEBRUARY, 1935

Debtors	Millions of Reichs- marks	Creditors	Millions of Reichs- marks	Creditor countries	Millions of Reichs- marks
Banks.....	1,958	Banks.....	3,810	Switzerland.....	1,269
Konversionskasse, clearings, etc.....	1,026	Financial companies..	647	United States of America	1,262
Industry, trade, etc....	2,879	Industry, trade, etc....	1,379	Holland.....	1,211
Miscellaneous.....	428	Miscellaneous.....	847	England.....	902
Public.....	392			France.....	383
				All others.....	1,656
Total.....	6,683	Total.....	6,683	Total.....	6,683

Source: *The London Economist*, February 11, 1939, p. 301.

APPENDIX VI

GERMAN CLEARING DEBTS DECEMBER, 1934-JUNE, 1938
In Millions of Reichmarks

	1934		1935		1936		1937		1938
	Decem- ber	March	June	Decem- ber	June	Decem- ber	June	Decem- ber	June
Great Britain ¹	55	36	26	8	..	..	..	..	..
Holland ²	65	123	119	106	89	48	11	7	22
France ³	87	59	93	68	42	35	31	17	3
Czechoslovakia ⁴	30	34	34	33	26	9	8	20	..
Jugoslavia ⁵	13	15	16	22	21	23	23	13	10
Greece ⁶	11	13	17	22	37	19	25	9	..
Switzerland ⁷	23	52	57	49	42	31	24	23	25
Italy ⁸	15	12	7	..	..	20	3	..	..
Scandinavia ⁹.....	..	..	..	..	..	..	..	..	..
Total.....	299	344	369	..	..	185	125	89	..
Others ¹⁰.....	..	223	..	..	..	..	..	224	..
Grand total.....	..	567	..	..	..	..	..	313	..

¹Great Britain.—The figure of £4.75 millions was given by the President of the Board of Trade to the House of Commons in December, 1934. Towards the end of the month the first payments were made to English exporters from the credit granted to the Reichsbank by the Bank of England. The figures for 1935 have been estimated, taking account of further distributions from the credit and also the allocation, under Article 6 of the Anglo-German Payments Agreement, of 10 per cent monthly from the proceeds of German exports to England. The figures in the table may be one or two million reichsmarks out on either side, but published statements confirm the estimate that the debt was extinguished in the spring of 1936. By the working of the Payments Agreement, no such debts can arise in the future.

²Holland.—The apparent increase in the Dutch total from December, 1934, to March, 1935, was partly due to the admission of further items to the total of frozen commercial debts in arrears. The amounts on the Sonderkonto and Treuhänderkonto at the Nederlandsche Bank are included in the figures with the clearing account proper until their liquidation around the end of 1936. Early in 1935 Holland was by far the greatest creditor of Germany on clearing accounts, but the debt was steadily reduced during the following two years and in the autumn of 1937 there was a small Dutch debt on the account. This situation did not last long and the German debt, which reappeared in December, 1937, grew to 32 million reichsmarks by September, 1938. Since October 1, a new agreement has been in force.

³France.—The fall in the German clearing debt to France in the spring of 1935 was due to the taking over of the Saar territory (and its credits against Germany). In the summer of 1935 the debt reached its highest level (100 million reichsmarks in July and August), from which a steady reduction took place. No figures have been published since the new Payments Agreement was negotiated in July, 1937, but early in August, 1938, it was stated that the debt was then completely liquidated from the monthly pay-

APPENDIX VI—*Concluded*

ments of the Reichsbank. The figures given for December, 1937, and June, 1938, assume equal monthly repayments. Under the working of the Payments Agreement such debts cannot arise in the future.

⁴Czechoslovakia.—This account was published regularly until February, 1938 (24 million reichsmarks). The Anschluss necessitated a new agreement; publication of current figures was suspended and has not been resumed. A quarterly census of Czechoslovakian exporters' claims (i.e., including credits granted) showed generally some 20 million reichsmarks above the clearing debt due from Germany.

⁵Jugoslavia.—This account has been published regularly and appears to have worked fairly smoothly. The German debt was at its highest early in 1937 (February, 1937, 38 million reichsmarks).

⁶Greece.—This debt was at its highest point in the autumn of 1936 (October, 1936, 38 million reichsmarks), and was later reduced considerably under a special arrangement for liquidation. In June, 1938, and following months a small Greek debt appeared for the first time.

⁷Switzerland.—This account has never shown a debt of less than 20 million reichsmarks, but for the past two years has fluctuated at somewhat less than half the high level (above 60 million reichsmarks) reached in the summer of 1935.

⁸Italy.—The blanks for December, 1935, and June, 1936, are due to the non-publication of the account in Italy during the sanctions period. Since October, 1937, the account has shown a credit for Germany amounting in June, 1938, to 9 million reichsmarks.

⁹Scandinavia.—The clearing accounts of Norway and Finland with Germany are published but have been omitted from the table since the "Spitzen" against Germany have generally been negligible (at their highest in March, 1935, only 14 million reichsmarks together). The clearing with Sweden is also understood to work to the satisfaction of both parties. It is believed that the Danish clearing ran into difficulties in the summer of 1936, but no figures were published. Any German debts to these countries appear, therefore, under the heading of "Others."

¹⁰Others.—Perhaps the most surprising thing in the table is the seeming stability of the debt to other countries from March, 1935, to December, 1937. Although these other accounts are not published, enough is known, particularly owing to the leakage of details during negotiations between the parties, to realize that big changes have in fact taken place. For example, the debt on clearing account to Belgium, which was estimated at about 30 million reichsmarks early in 1935, was, it is known, extinguished before the end of 1936, and under the Payments Agreement now in force such deficits cannot arise. On the other hand, the debt to Poland, which was negligible or non-existent at the end of 1934, rose steadily throughout 1935 until the autumn of 1936, when it was given at 50 million reichsmarks, being chiefly amounts due in connection with the transit of the Reichsbahn through the Polish Corridor. This debt is being reduced by deliveries from Germany (which account for the high level of Polish imports). No indication was given of the debt to Turkey until the arrears accumulated to some 60-80 million reichsmarks early in 1937. Since August, 1937, monthly figures have been published showing the reduction of the debt to 8 million reichsmarks in June, 1938.

Little is known of the clearings with Bulgaria, Rumania, and Hungary except that Germany has had fairly considerable debts on these accounts, amounting perhaps at the highest point in each case to around 20 million reichsmarks (but probably also in each case much reduced at the present time through special deliveries with the specific object of repaying the clearing debt).

Still less is known of the German debts to South American countries represented by the volume of ASKI-marks outstanding. The Banco de la Republica in Colombia has published monthly figures since January, 1936, but they are unimportant—the highest being 4 million reichsmarks in March, 1938. In other cases debts are known to have been substantial but no figures have been published. In particular, German trade with Brazil was temporarily interrupted in the fall of 1938, when the Bank of Brazil refused to buy ASKI-marks as its holding was already "unwieldy." This situation contrasts with that in 1934, when Brazilian debts to Germany were considerable.

Source: *The London Economist*, December 3, 1938, p. 485.

APPENDIX VII

GERMAN LONG-TERM FOREIGN DEBT—FEBRUARY 28, 1935

In Millions of Reichsmarks

	Public debt	Banks	Individual, commercial, transportation and agriculture	Others	Total
Total long term.....	2,330	688	3,014	408	6,440
Creditors					
Banks.....	51	130	646	71	907
Finance houses.....	31	29	296	87	443
Trade and industry.....	1	5	152	20	178
Others.....	2,247	515	1,920	230	4,912
Creditor Countries					
United States of America.....	713	327	1,195	45	2,280
Great Britain.....	340	63	297	8	714
France.....	407	24	37	11	479
Netherlands.....	497	148	671	137	1,453
Switzerland.....	221	87	702	85	1,095
Belgium.....	32	3	12	3	50
Italy.....	38	0	26	6	70
Sweden.....	73	11	8	6	98
Others.....	3	25	66	107	201
Type of Debt					
Loans.....	2,241	493	1,741	106	4,581
Mortgages, etc.....	15	27	435	168	645
Other Debts					
To banks.....	42	122	467	14	645
To non-banks.....	32	46	371	120	569

Source: *Statistisches Jahrbuch*, 1938, p. 563.

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JOHN LOCKE AND THE DOCTRINE
OF MAJORITY-RULE

BY

WILLMOORE KENDALL

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JOHN LOCKE AND THE DOCTRINE OF MAJORITY-RULE

BY

WILLMOORE KENDALL

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After Professor Garner's untimely death, Professor John A. Fairlie generously agreed to accept directorial responsibility for the project, as, when it became evident that Professor Fairlie would be absent from Urbana during the last crucial weeks of actual writing, Professor Francis G. Wilson amiably consented to give the writer the benefit of his erudition and critical acumen. To both of them, alike for the indulgent patience with which they have witnessed his tergiversations and for the keen criticism with which they have on numerous occasions come to his rescue, he is deeply grateful.

PART ONE



INTRODUCTION

CHAPTER I

PRELIMINARY CONSIDERATIONS ON THE DOCTRINE OF MAJORITY-RULE

SPECULATION about the political rôle of majorities is as old as Western political theory. "Democrats," says Aristotle in the *Politics*, "say that justice is that to which the majority agree, oligarchs that to which the wealthier class; in their [the oligarchs'] opinion the decision should be given according to the amount of property. In both principles there is some inequality and some injustice."¹ Elsewhere he writes:

The principle that the multitude ought to be supreme rather than the few best is *one that is maintained*, and though not free from difficulty, yet seems to contain an element of truth. For the many, of whom each individual is but an ordinary person, when they meet together may very likely be better than the few good, if regarded not individually but collectively, just as a feast to which many contribute is better than a dinner provided out of a single purse. For each individual among the many has a share of virtue and prudence, and when they meet together, they become in a manner one man. . . . Some understand one part, and some another, and among them they understand the whole.²

Aristotle's great teacher, who had, of course, an understandable grievance against majorities, returns to the problem again and again in his dialogues; and, like many modern writers, identifies majority-rule with majority-tyranny:

Imagine then a fleet or a ship in which there is a captain who is taller and stronger than any of the crew, but he is a little deaf and has a similar infirmity in sight, and his knowledge of navigation is not much better. Now the sailors are quarrelling with one another about the steering; every one is of the opinion that he ought to steer, though he has never learned and cannot tell who taught him or when he learned, and will even assert that the art of navigation cannot be taught, and is ready to cut in pieces him who says the contrary. They throng about the captain, and do all they can to make him commit the helm to them; and if he refuses them and others prevail, they kill the others or throw them overboard, and having first

¹Aristotle, *Politica* (translated by Benjamin Jowett), vi. 3. 1318a.

²*Ibid.*, iii. 11. 1281a-b (italics mine). Passages of this kind from Aristotle must, of course, be handled gingerly, alike because of Aristotle's habit of paraphrasing current opinions which he did not share, and because he almost certainly means by the multitude (= majority?) the majority of the people *not counting women, metics, or slaves*. Aristotle's "better" opinion probably reveals itself in such a passage as the following: "Now they agree in saying that whatever is decided by a majority of the *citizens* is to be deemed law. Granted:—but not without some reserve; since there are two classes out of which a state is composed,—the poor and the rich,—that is to be deemed law, on which both or the greater part of both agree; and if they disagree, that which is approved by the greater number, and by those who have the higher qualification" (*ibid.*, vi. 3. 1318a, italics mine). (Query: Aristotle the first proponent of a system of concurrent majorities?) But cf. *ibid.*, iii. 15. 1286a: "The state is made up of many individuals. And as a feast to which all the guests contribute is better than a banquet furnished by a single man, so a multitude is a better judge of many things than any individual. Again, the many are more incorruptible than the few; they are like the greater quantity of water which is less easily corrupted than a little. The individual is liable to be overcome by anger or by some other passion, and then his judgement is necessarily perverted; but it is hardly to be supposed that a great number of persons would all get into a passion and go wrong at the same moment." Apparently Aristotle was of two minds on this issue, and Catlin might well qualify such a statement as the following: "Why the *majority* will alone—that of the numerical majority—should be the index of the General Will is a question not so much answered by Rousseau as brusqued. It is, we are given to understand—contrary to the opinion . . . of Aristotle . . . the best practical way" (*The Story of the Political Philosophers* [New York: McGraw-Hill Book Co., 1939], p. 454).

chained up the noble captain's senses with drink or some narcotic drug, they mutiny and take possession of the ship and make themselves at home with the stores; and thus, eating and drinking, they continue their voyage with such success as might be expected of them.³

Again like the modern critics of majority-rule, he believes that it results inevitably in the substitution of demagogues for statesmen:

Him who is their partisan and zealous in the design of getting the ship out of the captain's hand into their own, whether by force or persuasion, they compliment with the name of sailor, pilot, able seaman, and abuse the other sort of man and call him good-for-nothing; but they have not even a notion that the true pilot must pay attention to the year and seasons and sky and stars and winds, and whatever else belongs to his art, if he intends to be really qualified for the command of the ship; while at the same time he must and will be the steerer, *whether other people like or not*. . . .⁴

Indeed, Plato is almost ready to say that where moral judgments are concerned the many are necessarily wrong:

In questions of just and unjust, fair and foul, good and evil, which are the subjects of our present consultation, ought we to follow the opinion of the many and to fear them; or the opinion of the one man who has understanding? You begin in error when you advise that we should regard the opinion of the many about just and unjust, good and evil, honourable and dishonourable.⁵

And, though he certainly believed that governments ought to rule in the interests of all rather than in the interests of a single class,⁶ it is into the mouth of Protagoras that he puts the words which would turn such a concession into an argument for governments subject to popular control: Hermes asked Zeus how he should impart justice and reverence among men:—should he distribute them as the arts are distributed; that is to say, to a favoured few only, one skilled individual having enough of medicine or of any other art for many unskilled ones? Shall this be the manner in which I distribute justice and reverence among men, or shall I give them to all? To all, said Zeus; I should like them all to have a share; for cities cannot exist, if a few only share in the virtues, as in the arts.⁷

The proposition that there is resident in the majority a certain virtue which, outweighing all the claims of expertise or intellectual superiority, gives it the right to make final decisions affecting the welfare of the state,

³Plato, *Republic* (translated by Benjamin Jowett), vi. 488.

⁴*Ibid.* (italics mine). The latter part of this passage is translated quite differently by Paul Shorey in his edition of the *Republic* in the Loeb Classical Library (London: William Heinemann, 2 vols., 1930-1935), but the variations do not impair its applicability in the connection in which we have used it.

⁵Plato, *Crito*, 47-48. Cf. *Laws*, i. 627: "Citizens who . . . live in the same cities, may unjustly conspire, and having the superiority in numbers may overcome and enslave the few just; and when they prevail, the state may be truly called its own inferior and therefore bad; and when they are defeated, superior and therefore good." It is interesting to note that Plato, anticipating an important modern tendency in political thought, believed it was possible to escape between the horns of the dilemma, majority-rule versus minority-rule: "Now, which would be the better judge,—one who destroyed the bad and required the good to govern themselves; or one who, while allowing the good to govern, let the bad live, and made them voluntarily submit? Or lastly, there might be a third excellent judge who . . . not only did not destroy anyone, but reconciled them to one another for ever after, and gave them laws which they mutually observed, and was able to keep them friends" (*ibid.*, 627-8, italics mine). See below, pp. 19-21.

⁶Plato, *Republic*, iv. 420. Wherefore obedience, as he argues elsewhere, is due only to the ruler who uses his power in the interests of his subjects (*ibid.*, i. 342).

⁷Plato, *Protagoras*, 322. Protagoras continues: "And this is the reason, Socrates, why the Athenians and mankind in general, when the question relates to . . . political virtue, which proceeds only by way of justice and wisdom, . . . are patient enough of any man who speaks of them, as is also natural, because they think that every man ought to share in this sort of virtue, and that states could not exist if this were otherwise" (*ibid.*, 322-323).

was more or less a commonplace in the utterances of the democratic statesmen of the ancient world. Thus, for example, the leader of the popular party at Syracuse, Athenagoras, maintained that although "the wise [are] the best counsellors, . . . the many, when they have heard a matter discussed, [are] the best judges."⁸ And even at Rome it was necessary for Claudius, at the moment that he was deliberating measures to nullify the will of a majority, to concede that adequate guarantees of free speech justify the majority-principle:

Aequum enim est, ut unusquisque declaret, quae e republica fore existimat, sed pareat iis, quae a pluribus fuerint decreta.⁹

While there is ample evidence that political theory took cognizance of the problem of majority-rule not only in Classical antiquity but repeatedly through the intervening period,¹⁰ it was not until the late seventeenth and

⁸Thucydides (translated by Benjamin Jowett), vi. 39. In the light of what we shall argue below (p. 122), it is interesting to observe that Athenagoras believes that where the rich are first heard on matters of finance and the wise on matters of general policy, the majority subsequently making the decision, the result is equality for all. On the capacity of the majority to make decisions, cf. the declaration of Pericles in his famous eulogy of Athenian democracy: "If few of us are originators, we are all sound judges of a policy" (*ibid.*, i. 40).

⁹Dionysius of Halicarnassus, *Antiquitates Romanae* (translated by J. J. Reiske), xi. 56.

¹⁰Cf. Otto von Gierke, "Über die Geschichte des Majoritätsprinzips," *Schmollers Jahrbuch für Gesetzgebung, Verwaltung und Volkswirtschaft im Deutschen Reiche*, XXXIX (1915), p. 566: "In der griechischen Staatslehre stossen wir überhaupt nicht auf Reflexionen über den Grund der Geltung des Stimmenmehrers. Erst die römischen Juristen suchen nach dem Geltungsgrunde. Sie begnügen sich aber mit einer sehr äusserlichen Rechtfertigung." Cf. Joseph Stawski, *Le principe de la majorité* (Gedani: Ex Officina Boenigiana, 1920), p. 73: "L'évolution des idées juridiques sur le principe de la majorité sera déterminée par le développement des conceptions au sujet des corporations, en particulier, des décisions corporatives. Réaliser ce progrès sera l'œuvre de la science juridique du moyen-âge." The following lines are from the younger Pliny (*Epistolae*, ii. 12): "Sed hoc pluribus visum est. Numerantur enim sententiae, non ponderantur; nec aliud in publico consilio potest fieri, in quo nihil est tam inaequale quam aequalitas ipsa: nam cum sit impar prudentia, par omnium ius est." Both Ulpian and Scaevola stated in the clearest manner possible the central notion involved in majority-rule, but they are, be it noted, merely setting down a legal rule, and are not expressing an opinion as to whether or not it is a wise or useful one. Thus Ulpian (*ap. Gierke, loc. cit.*): "Refertur ad universos, quod publice fit per maiorem partem"; and Scaevola (*ibid.*): "Quod maior pars curiae effecit pro eo habetur, ac si omnes egerint." Cf. Edoardo Ruffini Avondo, *Il principio maggioritario* (Torino: Fratelli Bocca, 1927), pp. 21-22: "Bandita ogni ricerca sulla sua opportunità politica e sul suo valore morale, i Romani si preoccuparono anzitutto di dargli [il principio maggioritario] una formulazione giuridicamente esatta, classificandolo nel quadro dei fenomeni giuridici." The belief that Marsilius of Padua's dictum (*Defensor pacis* [Leipzig and Berlin: Verlag von B. G. Teubner, 1914], i. 12. 3) that "legislatorem seu causam legis effectivam primam et propriam esse populum seu civium universitatem, aut eius valentiorum partem per suam electionem seu voluntatem in generali civium congregatione per sermonem expressam, praecipientem seu determinantem aliquid fieri vel omitti circa civiles actus humanos sub poena vel supplicio temporali: valentiorum inquam partem, considerata quantitate in communitate illa super quam lex fertur; sive id fecerit universitas praedicta civium aut eius pars valentior per seipsam immediate, sive id alicui vel aliquibus commiserit faciendum, qui legislator simpliciter non sunt nec esse possunt, sed solum ad aliquid et quandoque, ac secundum primi legislatoris auctoritatem," stamps him as an ally of the majority-rule democrats, is now in disrepute. See C. H. McIlwain, *The Growth of Political Thought in the West* (New York: The Macmillan Co., 1932), pp. 303-304, where current misapprehensions regarding Marsilius' position are attributed to the omission of the words "et qualitate" from all the texts of the *Defensor pacis* printed before 1928. (In C. W. Previtte-Orton's critical edition [Cambridge: University Press, 1928] the words "considerata quantitate" of the foregoing quotation are followed by "personarum et qualitate.") The quotation from Marsilius is, nevertheless, evidence that the idea of majority-rule had not been forgotten (Marsilius having at least taken the care to dissociate himself from it), and is thus relevant here. It in fact identified him with the canon law doctrine that decisions should be made by the *maior et sanior pars*, which, according to Stawski (*op. cit.*, p. 76), was less a denial that there existed a presumption in favor of the opinion of the *pars numerosior* than an insistence that the latter must go by the board when such presumption is refuted. Cf. Ruffini Avondo, *op. cit.*, pp. 31-32: "La maggioranza numerica è anche la parte più sana del collegio, salvo prova contraria. L'onere della prova spettava alla minoranza." The same writer summarizes (*ibid.*) an earlier form of the doctrine of *sanioritas* as follows: "Quando la minoranza supera in zelo, autorità e dignità la maggioranza, quest' ultima soccombe, dovendosi i più chiamare i meno, e i meno chiamare i più." After Marsilius, writes J. G. Heinberg ("Theories of Majority Rule," *American Political Science Review*, XXVI [June, 1932], p. 457), "we find the dogma of majority rule a prominent, although never explicitly and thoroughly developed, part of the current political theory." Cf. Hugo Grotius, *De iure belli ac pacis libri tres* (Lugduni Batavorum: Apud A. W. Sijthoff, 1919), ii. 5. 17: "Consociationes praeter hanc maxime naturalem sunt et aliae, tum privatae, tum publicae: et haec quidem aut in populum, aut ex populis. Habent autem omnes hoc commune,

eighteenth centuries (after 1688 and, if not the birth, at least the conception of the first of the great modern democracies) that it came into its own.¹¹ It came into its own, as political problems often do, after it had been posed more or less clearly in practice;¹² for even those who most strenuously deny the identity between majority-rule and democracy will no doubt agree that *one* of the problems suggested by the events of 1688¹³ was that of the claims of a majority (in this case, to be sure, a very large majority) of an established community to name the conditions upon which it is willing to participate in a common social adventure with persons (or, in *our* language, with a minority) who conceive that adventure in terms different from its own. In 1688 the minority "acquiesced," wherefore Englishmen can call the revolution which occurred in that year the Bloodless Revolution. This was well; but it meant, among other things, that opinions might subsequently differ as to what had happened. The minority having peacefully acquiesced, there was a presumption that the majority had pressed its claims "responsibly," and had named conditions less severe than it might have but for its recognition of a limit upon the validity of those claims. On the other hand, this was only a presumption. The minority had indeed acquiesced, but perhaps it had done so by necessity rather than by choice. Perhaps the Settlement did represent the full measure of what the majority cared to demand. In short, though History had posed a problem, none could with authority say that he had read aright the question she had asked.

In this sense, but only in this sense, political theory proceeded to get ahead of history for a time; and the problem to which Locke in 1690 devoted his *Second Treatise* did not present itself in *unambiguous* historical form until 1776 or 1789. Even 1776 is doubtful—here again because men can read differently the meaning of what happened. Burke could argue, alike with regard to 1776¹⁴ and 1688¹⁵ that the majority, very far

quod in iis rebus ob quas consociatio quaeque instituta est, universitas, et eius pars maior nomine universitatis obligant singulos qui sunt in societate. Omnino enim ea credenda est fuisse voluntas in societatem coëntium, ut ratio aliqua esset expediendi negotia: est autem manifeste iniquum, ut pars maior sequatur minorem: quare naturaliter, seclusis pactis ac legibus quae formam tractandis negotiis imponunt, pars maior ius habet integri." Cf. Thomas Hobbes, *Elementa philosophica de cive* (Amsterdam: Apud L. & D. Elzevirios, 1657), vi. 2: "Considerandum deinde est, unumquemque ex multitudine (quo constituendae civitatis principium fiat) debere consentire cum caeteris ut in iis rebus quae a quopiam in coetu proponuntur, pro voluntate omnium habeatur id, quod voluerit eorum maior pars." Cf. Samuel Pufendorf, *De officio hominis et civis juxta legem naturalem libri duo* (New York: Oxford University Press, 1927), ii. 6. 12: "Verum ubi regimen civitatis collatum est in concilium, ex pluribus hominibus constans, quorum quisque suam retinet voluntatem naturalem; regulariter illud habetur pro voluntate civitatis, in quod consenserit maior pars hominum, ex quibus concilium componitur."

¹¹Włodzimierz Starosolskyj, *Das Majoritätsprinzip* (Wien: F. Deuticke, 1916), p. 6: "Das Ende des XVIII. Jahrhunderts bildet die wichtigste Epoche in der Geschichte des Majoritätsprinzips. Die Lehren des Naturrechts über die Natürlichkeit und Wichtigkeit des Prinzips haben in der grossen französischen Revolution ihren praktischen Ausdruck gefunden."

¹²*Ibid.*, p. 35: "Es ist eine Erscheinung von grosser Bedeutung, dass die Erörterung der Frage nach der Zweckmässigkeit der sozialen Institutionen und die Versuche, sie zu rechtfertigen, diesen Institutionen historisch nicht vorangehen, sondern ihnen nachfolgen."

¹³So also by those of the Protectorate, where, however, the heterogeneity of the Cromwellian movement finally prevented the issue from being posed in terms of majority vs. minority.

¹⁴Edmund Burke, "An Appeal from the New to the Old Whigs," *Works* (London: Henry G. Bohn, 1855), III, p. 31.

¹⁵*Ibid.*, pp. 44-45.

from asserting a right to determine unilaterally the conditions upon which the society might continue in existence, was (in a case of *absolute necessity*) merely holding the minority to conditions previously agreed. *Pacta sunt servanda*, and no foolishness about a majority-principle! Similarly, the authors of the new constitution of the United States either saw no majority-rule implications in the events through which they had been living, or (if they did see such implications) studiously avoided pointing them up in the new frame of government. The Tory minority which had taken refuge in Canada, on the other hand, may well have felt—when news came to them a few years later of the turn things had taken in France—that History was repeating itself; and majority-rule democrats can always point to our elaborate system of checks and balances as evidence that even the constitution-makers of Philadelphia were sufficiently aware of History's having posed a question about majority-rule to answer it in the negative.

Whatever the correct conclusion may be with regard to 1776, there seems to be no doubt about 1789. Here the minority were not even invited to acquiesce, and the majority, *i.e.*, the leaders of the majority, wasted no words upon talk of ancient agreements. They were, rather, inclined to insist upon the novelty of the principles on which they were acting: They did what they did because they were the majority, and the majority does not need to name reasons for what it does. "La loi," they wrote solemnly into their constitution, "est la volonté générale, exprimée par la majorité ou des citoyens ou de leurs représentants."¹⁶ The Abbé Sieyès was hardly willing to discuss the question; the principle of majority-rule had been "demonstrated," and was, presumably, no more open to challenge than the laws of geometry:

Nous avons démontré la nécessité de ne reconnaître la volonté commune que dans l'avis de la pluralité. *Cette maxime est incontestable.*¹⁷

Mirabeau had a ready answer for those who saw in the principle the possibility of "one-man" decisions, and could accuse them of timidity:

Ceux qui s'opposent à cette loi sont séduits par l'espèce de frayeur que leur cause l'idée de voir la prépondérance d'un seul suffrage décider *les questions les plus importantes*. Mais qu'ils ne s'y trompent pas; ce n'est pas tel ou tel suffrage qui décide, c'est la comparaison de la somme de ceux qui disent *oui*, avec la somme de ceux qui disent *non*.¹⁸

It was Locke's question that Mirabeau was answering; and Mirabeau was, for a time at least, the voice of History. Both question and answer were, for the rest, unambiguous. The latter, reduced to its very simplest terms by a recent writer, runs as follows: "Nous, l'immense majorité,

¹⁶*Constitution de l'an III*, "Déclaration des droits et des devoirs de l'homme et du citoyen," Art. 6.

¹⁷Comte Emmanuel Joseph Sieyès, *Qu'est-ce que le tiers état?* (Paris: A Coreard, 1822), p. 197 (italics mine).

¹⁸Honoré Gabriel Riquetti Mirabeau, *Œuvres* (Paris: Lecointe et Pougin, 1834), I, p. 160 (italics mine). The lines here reproduced are from a speech delivered on July 29th, 1789.

nous avons le droit de faire la loi à vous, l'infime minorité."¹⁹ But a rejoinder came thundering from across the Channel:

Are we to deny to a *majority* of the people the right of altering even the whole frame of their society, if such should be their pleasure? They [the revolutionists in France] may change it, say they, from a monarchy to a republic today, and tomorrow back again from a republic to a monarchy. . . . They are masters of the commonwealth. . . . The French Revolution, say they, was the act of the majority of the people; and if the majority of any other people, the people of England, for instance, wish to make the same change, they have the same right.

*Just the same undoubtedly. That is, none at all.*²⁰

Burke had grasped the true meaning of the things being said in Paris, the latter never having been put forward as relevant merely to the French situation. He became anxious, as many others have done since, when they have contemplated the possibility of majority-rule at home; and his anxiety is written upon many of the pages of his *Appeal from the New to the Old Whigs*, and his *Reflections on the French Revolution*.²¹ Along with the anxiety there is much wisdom about Locke's (*i.e.*, Mirabeau's) question, and the answer which Locke and Mirabeau (and *possibly* Rousseau) had given—wisdom of which the majority-rule democrats have not yet taken sufficient notice.

"Cette maxime est incontestable." "No right at all." So the issue was joined; and, as it divided Burke not only from the revolutionary leaders in France but also from those (*e.g.*, Fox) whom he suspected of sympathy with them, so it has divided men ever since. There is a sense in which it is the central problem both of modern politics and of modern political theory, a sense in which a complete bibliography of the problem would include almost everything that has been written about politics since 1789. There is a sense in which even those who most deliberately avoid it can be said, not unfairly, to have written to it, committing themselves, as they proceed, to positions which stamp them either as friendly or as unfriendly to the claims of popular majorities to power in the state. There is a sense in which every shift in power-relations in any state must be interpreted as a victory or as a defeat for the majority-rule democrats.

There is another sense in which (borrowing a phrase from the contemporary literature of county government) the debate about majority-rule is the "dark continent" of modern political theory. Theorists have, on the whole, preferred to attack the problem of majority-rule at its periphery rather than at its center; and the historians of political theory, in interpreting (for those who must read as they run) the political ideas of our forbears, have ordinarily felt little or no responsibility for making clear the implications of their thought with regard to the ultimate choice

¹⁹Nicolas Saripolos, *La démocratie et l'élection proportionnelle* (Paris: Arthur Rousseau, 1899), p. 220 (italics mine).

²⁰Burke, *op. cit.*, p. 76 (italics mine in final paragraph).

²¹Edmund Burke, *Reflections on the French Revolution* (London: J. M. Dent & Sons, Ltd., 1910).

between majority- and minority-rule. For this there are several reasons:

In the first place, since 1789 (or thereabouts) political theorists have been increasingly skeptical regarding the possibility of separating, even for purposes of discussion, the "political" from the "economic"—and, latterly, regarding the utility of maintaining any distinction between them at all. This has entailed, for one thing, a growing concern on the part of students of politics with problems of economic theory and organization and with (*e.g.*) the debate regarding the respective merits of capitalism and socialism—a responsibility which they could discharge only at the price of neglecting what less enlightened ages had regarded as primarily political problems. Life being short and theory long, there are sharp upper limits to the time a man can give to the problem of *how* social decisions ought to be made when a considerable part of his time is mortgaged to investigation of the problem (certainly an important one) of what shape these decisions ought to take. It has entailed, for another thing, the injection into the concept of democracy²² and the concept of majority-rule²³ (assuming for the moment the validity of the distinction sometimes drawn between them) of an *economic* content; with the result that democracy is identified now with capitalism and now with socialism, and men unhesitatingly take it for granted that majority-rule is merely another expression for the economic emancipation of the poor.²⁴ How far this blurring of concepts has now gone may be seen, on the one hand, in the writings of Everett Dean Martin, who since he is unable to conceive of democracy outside a capitalist context would be hard put to it to salvage the distinction between capitalism and democracy, and, on the other hand, in the writings of Harold J. Laski and Max Lerner. At the limit, the thought of these latter writers expresses itself in such politico-economic amalgams as "democratic collectivism"²⁵ and "economic democracy"²⁶—*i.e.*, the confusion of categories becomes a complete interpenetration.²⁷ And the result, with respect to the clarity of our outlook

²²Cf. Everett Dean Martin, "The Place of Government in Modern Economic Society," *Annals of the American Academy of Political and Social Science*, CCVI (November, 1939), p. 14: "This is the very essence of democratic liberal government—the consent of the governed. Even on the assumption that there is a scientific technology adequate to control the entire economic life of a nation, . . . it is clear that governmental planning is incompatible with the consent of the governed."

²³Cf. Max Lerner, *It Is Later Than You Think* (New York: Viking Press, 1938), p. 97: "There can be no significant or lasting political democracy that is not based upon economic democracy. . . . It is like having a handsome and impressive architectural facade when behind it the walls are loose and the plaster crumbling." Mr. Lerner does *not* distinguish between democracy and majority-rule. Cf. *ibid.*, p. 98: "Democracy, . . . means the rule of the majority through a set of representatives chosen by direct election."

²⁴Cf. Harold J. Laski, *Democracy in Crisis* (London: George Allen & Unwin, Ltd., 1934), p. 233: "The logic of universal suffrage is either an equal society or such a continuous expansion of material welfare as softens the contrast between rich and poor."

²⁵Lerner, *op. cit.*, p. 150.

²⁶Harold J. Laski, *Parliamentary Government in England* (New York: Viking Press, 1938), p. 69: "A political democracy seeks, by its own inner impulses, to become a social and *economic* democracy" (*italics mine*).

²⁷Cf. R. M. MacIver, *Leviathan and the People* (Baton Rouge: Louisiana State University Press, 1939), p. 162: "Democracy is a type of *political* structure. It premises the equality of men as *citizens*, with respect therefore to their rights as voters and their rights before the law. The question at issue is whether their political equality involves, logically or psychologically, social and economic equality as well. On neither ground is the identification justified."

upon recent historical phenomena, may be assessed when we raise such a question as the following: Given a "people" of whom (say) sixty per cent are committed to the perpetuation of a capitalist economic system, and forty per cent to its replacement by a socialist economic system, what is the "democratic" solution? Such a question, in the light of recent (post-war) tendencies in Germany, England, France, Spain, *etc.*, can hardly be called unrealistic; and if Professor Laski and Professor Lerner were to give the reply to which they appear to stand committed by their recent pronouncements, or, reversing the proportions, Professor Martin the reply to which he appears to stand committed by his, then the time has indeed come either to abandon the formal separation between economics and political science or to straighten out our thinking with respect to the division of field between them. Meanwhile, the leading economic theorists of our day (Pigou, Keynes, Taussig, Knight, *et al.*) cannot be accused of having questioned the validity and usefulness of the separation; and any attempt to fuse the two disciplines would have to reckon with relentless opposition from that quarter.²⁸ What the choice ought to be is a matter which lies far beyond the proper scope of the present study; but the fact that there is a choice to be made provides a partial explanation of the avoidance, by recent political theory, of the central issue between majority- and minority-rule. For sober discussion of majority-rule (whether friendly or unfriendly) necessarily abstracts from the content of decisions and fixes attention upon the method of making them. It is a problem which becomes meaningless outside the context of a sharp separation between the subject matter of economic science and that of political science.

A second barrier to direct treatment of the problem of majority-rule in the political theory of the recent past has been what we may fairly call the quest for historical "inevitabilities"—a quest which, at the limit, rests upon premises which reduce the issue at stake between the defenders and opponents of majority-rule to mere triviality. If, for example, the course of history is always determined by *some* minority, or if the majority always gets its way as a matter of course, or if politics is necessarily the pale reflection of an economic reality which is itself determined by immutable laws of history, there would appear to be no more point in canvassing the respective merits of majority- and minority-rule than in canvassing the respective merits of (*e.g.*) cold and warm weather; and to an astonishing extent recent political theory has concerned itself (as, in order to deal with such giants as Hegel, Marx, and Spengler, it appar-

²⁸Note, for example, how neatly it is maintained in the following statement from a contemporary economist: "Either it [the majority of the population] is permitted to express its collective will or it is suppressed by a dominant minority or its position is somewhere between these extremes. The extent to which it may express its will is a measure of the degree of democracy prevailing" (William L. Hopkins, "The Framework for the Use of Labor," *Annals of the American Academy of Political and Social Science*, CCVI [November, 1939], p. 42). Pro-

ently must) with problems of precisely this nature.²⁹ We do not raise here the question whether the shift of interest in this direction has been wise or justifiable, our point being merely that it has involved as a logical necessity neglect of and disparagement for the problem dealt with in these pages. This does not mean, of course, that in order to hold an opinion about majority-rule one must repudiate the notion of social law and embrace Dr. Johnson's doctrine that the will is free and there's an end to it; but it is undoubtedly true that the reality and importance which a given theorist is likely to concede to the question posed by the majority-rule democrats depend upon the degree of indeterminacy which he attributes to political events. No indeterminacy, no problem.

A third development which has done much to prevent political theorists from making the debate about majority-rule one of their central pre-occupations has been the growing incidence of the belief that the choice between majority-rule and minority-rule is a false dilemma. We have already noticed, in speaking of Plato, an early expression of that belief—*i.e.*, Plato's argument that the excellent judge is neither he who gives the

fessor Laski and Professor Lerner, on the other hand, appear to be saying that in the absence of a considerable measure of economic equality the extent to which the majority of the population is able to effectuate its will is *not* a reliable index of the "degree of democracy prevailing"—whatever may be the case where the requisite measure of economic equality is present. Now: since the societies with which we are familiar are societies from which the requisite measure of economic equality is clearly absent, they can hardly avoid the conclusion that in attempting to classify these societies, we dare not accept the existence of facilities for the expression (and, as Professor Hopkins would presumably add, the implementation) of the will of the majority as evidence of democratic character. And, while it seems improbable that either of the writers referred to would, if faced directly with this question, take the position that such facilities are valueless, from the democratic point of view, in a (for them) inappropriate economic context, the insistence upon economic equality as an indispensable precondition for democracy can, as with Lenin, easily conduce to such a position. The danger, as Sidney Hook has ably shown ("Reflections on the Russian Revolution," *Southern Review*, IV [1939], p. 461), is that one will end up by claiming democratic sanctions for the decrees of an *authoritarian* government on the grounds that it is promoting economic equality; and no one is really safe from that danger, in the present writer's opinion, until he has freed himself from the temptation to call undemocratic those societies with whose economic policies he does not happen to sympathize. To assign a specific economic content to the concept of majority-rule democracy is, in effect, to question the majority's crucial right to exercise its own judgment in shaping the outlines of its economic system.

It is not necessary, in order to press this point, to look forward less eagerly than Professor Laski and Professor Lerner, or, for that matter, than Lenin, to the time when existing "democracies" shall have learned to operate their economic systems at full capacity, and to distribute the product in such a fashion as to abolish poverty. Nor is it necessary to repudiate their conviction that the extremes of poverty with which we are today familiar prevent large numbers of men from making the most of the political rights which they enjoy under existing "democratic" constitutions. Nor, finally, is it necessary to wish less fervently than they that those who are so prevented shall soon be admitted to a fuller share of the good things which a smoothly-functioning economic system might provide. But much confusion could be avoided if those who see eye to eye on these issues were to adopt the simple expedient of calling a society which denies this fuller share to some of its members a "bad" (*i.e.*, not the "good") society, reserving the term "undemocratic" for those societies in which decision-making power has become concentrated in the hands of a numerical minority. This would, to be sure, involve the admission (which the writers in question are apparently reluctant to make) that a society can acquire the paraphernalia of democracy without thereby becoming the good society, but it would greatly facilitate the task of defining those paraphernalia. The most that the social sciences can hope finally to offer to activists is (a) a theoretically defensible blue-print of a "good" political system, (b) a theoretically defensible blue-print of a "good" economic system, and (c) a clear picture of the social changes we must effectuate in order to translate each into reality. The question whether a good economic system can exist in the absence of a good political system, or a good political system in the absence of a good economic system (the latter being the question to which Professor Lerner and Professor Laski are really addressing themselves) is obviously posterior to the task of defining these things; and it is of this methodological consideration that the political scientists (but not the economists) have lately been unmindful.

²⁹The concept of an absolute historical determinism, corresponding in its way to the political *heimarmenē* of the later Stoics, seems to be, for reasons which cannot be clearly determined, much in the air in the contemporary world. Thus we find the doctrine developed not only in the vast and overwhelming work of Spengler, but in the thought of many lesser writers. Among

majority ascendancy over the minority nor he who gives the minority ascendancy over the majority, but rather that one who gives them both *lares* in the observance of which they may live together as friends. The notion reappears in the *Politics* of Aristotle, who, though not unconscious of the difficulties involved in putting it into practice, nevertheless treated it as an objective whose realization lay within the bounds of the possible.³⁰ It was, again, an important element in the "natural law" doctrines of the Middle Ages, the essence of which was an insistence that good law is a "given" which, wholly independent of human volition, is to be "discovered" either by the exercise of reason or the consultation of books and documents which "reveal" the will of God. It recurs in Harrington's dream of a "government of laws and not of men,"³¹ in Rousseau's "volonté générale" (which both was and was not independent of human volition), and finally, in modern "constitutionalism"—i.e., in all the attempts which men have made to bind themselves and their descendants to rules whose reasonableness has seemed, at the moment of their enactment, beyond challenge. The theory holds that men subsequently obey such rules not because they are the will of the majority or the will of the minority, but because they are the Law; and, while it is a conception which readily lends itself to caricature³² (as also to exploitation!), such has been its appeal to minds which have commanded universal respect that we should, perhaps, apply to it the rule which Sir Joshua Reynolds is said to have applied to Livy and Raphael and Michelangelo:

If ever we should find ourselves disposed not to admire [it, we should] . . . not . . . follow our own fancies, but . . . study . . . until we know how and what

works notable for their diversity of accent and argumentation as well as the general similarity of their theses we may cite: C. H. Von Méray, *Weltmutation* (Zürich: Max Rascher, 1918); F. Vipper, *Krugovorot istorii* (of which a précis appears in the *Revue historique*, CLXIII [1930], pp. 160 ff.); Karl Joël, *Wandlungen der Weltanschauung* (Tübingen: Propyläen Verlag, 2 vols., 1928-1934); Alexander Raven, *Civilization as Divine Superman* (London: Williams & Norgate, 1932); Eugenio d'Ors (whose theories are developed in a series of articles on "Métahistoire" in the *Revue des questions historiques* in 1934-1936); Pitirim A. Sorokin, *Social and Cultural Dynamics* (New York: Macmillan Co., 3 vols., 1936-1938); Arnold J. Toynbee, *A Study of History* (London: Oxford Press, 6 vols., 1934-1939). It is, of course, possible to use the prevalence of the theory as argument for its validity, as does Spengler in his *Decline of the West* (translated by Charles F. Atkinson, New York: Alfred A. Knopf, 2 vols., 1928), I, p. xv: "I am convinced that it is not merely a question of writing one out of several possible and merely logically justifiable philosophies, but of writing the philosophy of our time, one that is to some extent a natural philosophy and is dimly presaged by all. . . . [It is] an idea that is historically essential—that does not occur within an epoch but itself makes that epoch. . . . It belongs to our time as a whole and influences all thinkers, without their knowing it." Cf. *ibid.*, pp. 159-160, where the doctrine of determinism is said to be "the last great task of Western philosophy, the only one which still remains in store for the aged wisdom of the Faustian Culture. . . . The physiognomic of world-happening will become the last Faustian philosophy." Cf. Lawrence Dennis, *The Dynamics of War and Revolution* (New York: The Weekly Foreign Letter, 1940), pp. xx-xxi: "It has always seemed to me that, in any objective sense of the term, all governments and societies everywhere in the world today, above the level of the tribal stage of culture, have to be democratic. That is to say, they must be governments more or less of the people, by the people and for the people. . . . The more arbitrarily and violently a people are governed today, the more dependent their government must be on continuous sanction by the will of a substantial majority. Otherwise, such a government would be overthrown overnight by an almost [!] spontaneous revolt of the dissatisfied majority."

³⁰Aristotle, *op. cit.*, iii. 11. 1282b: "Laws, when good, should be supreme. . . . The magistrate or magistrates should regulate those matters only on which the laws are unable to speak with precision owing to the difficulty of any general principle embracing all particulars" (italics mine). Cf. *ibid.*, I. 5. 1254a: "That some should rule and others be ruled is a thing not only necessary, but expedient."

³¹James Harrington, *Oceana* (Heidelberg: C. Winter, 1924).

³²As in Morris Cohen's phrase, "communal ghosts in political theory." Cf. Morris R. Cohen, *Reason and Nature* (New York: Harcourt Brace & Co., 1931), p. 386.

we ought to admire; and if we cannot arrive at the combination of admiration with knowledge, rather . . . believe that we are dull, than that the rest of the world has been imposed on.³³

That is, we should do, with respect to this theory, that which, according to the presuppositions of constitutionalism, majorities ought to do *vis-à-vis* constitutional rules which do not commend themselves to their approval. Without, however, calling into question the validity of the theory, it can be observed that the gulf fixed between those who can and those who cannot make sense of the notion of a "government of laws and not of men" is a very wide one, and that the debate about majority-rule is likely to seem much more urgent to those who cannot see any sense in it (and thus see minority-rule as the only other possibility) than to those who can. It can be observed, further, that the former find themselves obliged to conceive the problem in the following terms: The situation with regard to any particular rule at any particular moment is: (a) all are in favor of it, or (b) all are opposed to it, or (c) some are in favor of it and some are opposed to it. If (a), the rule will be observed as a matter of course. If (b), the rule will not be observed because no one will so much as raise the question. If (c), the opponents of the rule are (save in case of a tie) either more numerous or less numerous than its supporters; and since one of the two groups must now subject itself to a rule which it opposes, the fact that the other group is getting its way³⁴ cannot be covered over by a euphemism regarding government by laws.³⁵ This is not, by any means, to disregard the possibility envisaged by Professor MacIver, who points out that the majority may acquiesce because it belongs to a larger majority which demands that the entire body of laws not be placed at the mercy of any bare majority which seeks to change them.³⁶ This is undoubtedly a familiar phenomenon in modern politics. But the bare majority which wills a change and cannot secure it becomes, in this regard, subject to the will of the opposing minority; and nothing is really gained by representing it as subject to law rather than to the will of that minority.

A fourth consideration to which we may point in explaining the neglect of the problem of majority-rule in recent political theory is what

³³Burke, "An Appeal from the New to the Old Whigs," p. 114.

³⁴Cf. J. C. L. Simonde de Sismondi, *Études sur les constitutions des peuples libres* (Paris: Treuttel et Würtz, 1836), p. 144: "Chacun n'est libre, et à plus forte raison souverain, qu'autant que sa propre volonté s'accorde avec la volonté dominante; mais celui qui soumet sa volonté à une volonté contraire à la sienne n'est qu'un sujet."

³⁵Cf. T. E. Holland, *The Elements of Jurisprudence* (Oxford: The Clarendon Press, 1924), p. 46, where a state is defined as a "numerous assemblage of human beings, generally occupying a certain territory, amongst whom *the will of the majority, or of an ascertainable class of persons, is by the strength of such a majority, or class, made to prevail against any of their number who oppose it*" (italics mine). Note that Holland considers no third possibility, and thus aligns himself with the position set forth in the text. Cf. Joseph Story, *Commentaries on the Constitution* (Boston: Little Brown & Co., 2 vols., 1858), I, p. 269: "There could be but one of two rules adopted in all governments, either, that the majority should govern, or the minority should govern."

³⁶MacIver, *op. cit.*, p. 152: "It is the larger majority for the broader issue limiting the right of any small emergent majority within it lest by action directed solely to particular issues it defeat the greater consensus. *The proviso is obviously exposed to the risk that it confers a veto power on a mere minority, but it is at least susceptible of a different construction. It is an approach to what Rousseau considered the 'general will'*" (italics mine).

we may call the tendency to write off the idea of majority-decisions as a matter which does not lend itself to theoretical treatment.³⁷ "La loi de la majorité," wrote M. Esmein, "est une de ces idées simples qui se font accepter d'emblée."³⁸ It is, that is to say, like the axioms of Euclidean geometry; you look at it and you *know* it to be true.³⁹ To attempt to demonstrate it would, therefore, be like trying to demonstrate the law of contradiction itself. And, while no other writer of distinction appears to have made such a claim for it in so many words,⁴⁰ agreement with M. Esmein is perhaps the most charitable hypothesis upon which we may explain the behavior of the many writers who, without attempting to demonstrate its validity, have proclaimed their allegiance to the principle and hurried on to other matters⁴¹—or assumed its validity in the course of a discussion of some other problem.⁴² Ranged against M. Esmein, on the other hand, are a numerous body of writers who have been inclined to dismiss the majority-principle as a notion too preposterous to be worthy of serious attention—*i.e.*, as a notion whose *invalidity* is self-evident.⁴³ The chuckle in the following lines from Jellinek does not, for example, conceal either their high seriousness or the supposed axiomatic character of their inarticulate premise:

Dass zwei von vornherein mehr werth sein sollten als einer, widersprach den kraftvollen Individualitätsgefühl, das namentlich die germanischen Völker auszeichnete. Wenn ein kühner Mann im offenen Kampfe fünf überwinden konnte, warum sollte er sich im Rathe der Mehrheit beugen?⁴⁴

³⁷Cf. Georg Jellinek, *Das Recht der Minoritäten* (Wien: Alfred Hölder, 1898), p. 1: "Dass Mehrheit den Ausschlag gebe dort, wo es gilt Beschlüsse zu fassen, sei es bei Wahlen, sei es in der Gesetzgebung oder in verwaltenden und richtenden Collegien, erscheint uns heute so selbstverständlich, dass wir auf eine nähere Begründung verzichten zu müssen glauben." He adds, however (*ibid.*): "Und dennoch ist der Satz, dass Mehrheit entscheide, nichts weniger als selbstverständlich." Cf. Gierke, *op. cit.*, p. 565: "Infolge solcher allgemeinen Anerkennung nehmen wir heute das Majoritätsprinzip als etwas Selbstverständliches hin und zerbrechen uns nicht viel den Kopf darüber, warum denn hier überall der Teil so viel gilt wie das Ganze. Auch in juristischen, politischen, und philosophischen Schriften begegnen nur selten, eingehender Versuche seiner Rechtfertigung."

³⁸A. Esmein, *Éléments de droit constitutionnel français et comparé* (Paris: Librairie J. B. Sirey, 1906), p. 225.

³⁹Cf. Marie Collins Swabey, *Theory of the Democratic State* (Cambridge: Harvard University Press, 1937), p. 26: "It is as much an axiom of quantity that what there is more of should be accounted more as that equals should be accounted equal." All would agree; but some would ask, How much more?

⁴⁰Cf. Willmoore Kendall, "The Majority Principle and the Scientific Elite," *Southern Review*, IV (1939), p. 475: "Precisely the most interesting fact about the majority principle . . . is that some minds regard it as *obviously true*, and others regard it as *obviously false*. This is important because . . . we waste our time when we seek the grounds upon which a man will defend a proposition which he treats as self-evident. . . . The most you can hope to do . . . is to compile a history of how he came to believe [it]." Cf. Swabey, *op. cit.*, p. 11: "Democracy, as is well known, stakes its case on the inherent reasonableness (once called the 'self-evidence') of its ideas."

⁴¹*E.g.*, Floyd Henry Allport, *Institutional Behavior* (Chapel Hill: University of North Carolina Press, 1933), p. 81: "The only way out of this muddle, in my opinion, is to stop talking about the feasibility of a certain scheme for running the country and find out what we who are citizens, or what a substantial majority of us, want. What justification have we for abandoning the conviction that individuals are competent judges of their own needs?" Cf. J. W. Studebaker, *Plain Talk* (Washington: National Home Library Association, 1936), p. 147: "I am willing to wait for solutions until the majority is intelligent enough to support them."

⁴²Such, *e.g.*, was the invariable procedure of J. Allen Smith, the most uncompromising of recent majority-rule democrats in the United States. See his *The Spirit of American Government* (New York: Macmillan Co., 1912), *passim*. See also Albert M. Kales, *Unpopular Government in the United States* (Chicago: University of Chicago Press, 1914), *passim*.

⁴³An interesting compromise between these two positions is that put forward by Ruffini Avondo (*op. cit.*, p. 7): "Il principio maggioritario è naturale [in the preceding sentence he has coupled *naturale* with *intuitivo*] in questo solo senso, e cioè fino a tanto che lo si contrappone al suo assurdo e non mai esistito inverso, il principio minoritario."

⁴⁴Jellinek, *op. cit.*, p. 2.

Similarly, Anatole France's quip to the effect that "foolishness repeated by thirty million mouths is none the less foolishness,"⁴⁵ suggesting as it does the reply that a tautology by Anatole France is still a tautology, is in effect a denial that the majority-principle can be supported by rational arguments; and a like emphasis may be detected in Brooks Adams' *bon mot* to an acquaintance who had remarked that Mr. Adams did not appear to think very highly of democracy: "Do you think I'm a damned fool?"⁴⁶ Equally in point here are the commentaries of contemporary critics upon theorists who have attempted to defend the principle: Professor Sabine, for example, classifies Locke's belief in the "inevitable wisdom of majority decisions" as one of his "more doubtful ideas"⁴⁷ with a casualness which philosophical critics might well reserve for such matters as Bishop Berkeley's faith in the therapeutic properties of barley-water. Professor Catlin, who chides Rousseau for having "brusqued" the question "why the *majority* will alone—that of the numerical majority—should be the index of the General Will,"⁴⁸ observes in reply that neither Aristotle nor Montesquieu believed any such thing,⁴⁹ and apparently supposes that no further refutation of the notion is needed. Carritt can speak drolly of the "divine right of majorities" in the same breath with the "divine right of kings,"⁵⁰ thus disposing—with an adjective—of those who feel that there is at least *something* more to be said for the right of majorities than for the right of kings; and, in the same book, he permits himself to write off as a "weakness" *tout court* Locke's "argument that majority-rule is somehow specially consonant with the law of reason."⁵¹ And Professors Sabine and Shepard succeed in composing a ninety-page introduction to Krabbe's *The Modern Idea of the State*,⁵² the most vigorous of recent philosophical defenses of majority-rule, without even taking notice of this aspect of its argument—much as a charitable critic of Mill might, in writing about him, overlook the fact that he opposed government interference with the traffic in narcotic drugs!

In the light of the foregoing considerations, it is not altogether surprising that the bibliography appended to the article on Majority Rule in the *Encyclopaedia of the Social Sciences* includes hardly more than a dozen items. Less easy to explain, however, are the preponderance in that bibliography of Polish (Konopczyński, Starosolskyj, Stawski) and

⁴⁵Anatole France, *ap.* Catlin, *The Science and Method of Politics* (London: Kegan Paul, Trench, Trubner & Co., 1927), pp. 348-349.

⁴⁶Brooks Adams, *ap.* R. P. Blackmur, "Henry and Brooks Adams," *Southern Review*, V (1939), p. 316.

⁴⁷George H. Sabine, *A History of Political Theory* (New York: Henry Holt & Co., 1937), p. 540.

⁴⁸Catlin, *Story of the Political Philosophers*, p. 453.

⁴⁹*Ibid.*, p. 454.

⁵⁰E. A. Carritt, *Morals and Politics* (Oxford: Oxford University Press, 1935), p. 7. The writer has been unable to find any defenders of the majority-principle who claim divine sanctions for it. Cf. Starosolskyj, *op. cit.*, p. 39.

⁵¹*Ibid.*, p. 78.

⁵²Hugo Krabbe, *The Modern Idea of the State*, translated by George H. Sabine and Walter J. Shepard (New York: D. Appleton & Co., 1922), "Translators' Introduction," pp. xi-lxxxi.

German (Gierke, Simmel) names, the absence of a single book-length study on the subject by an English or an American writer, and, on another level (since the compilers of the bibliography can hardly be blamed if Poles and Germans do, and Englishmen and Americans do not, write on majority-rule), the exclusion of such obviously relevant items as Locke's *Second Treatise*, Rousseau's *Du contrat social*⁵³ and *Considérations sur le gouvernement de Pologne*,⁵⁴ Burke's *Reflections on the French Revolution* and *Appeal from the New to the Old Whigs*, and all the more recent masterpieces of democratic theory. While, as we have already intimated, by no means all are agreed that democracy and majority-rule are the same thing, the democratic movement has for a long while had within its ranks politicians and theorists who have sought to *make* them the same thing—i.e., to *change* democracy in the direction of majority-rule; and those who have stepped forward to defend the “constitutionalist” and minority-rights aspect of democracy have consequently found themselves obliged to become participants in what we may properly call the “debate” about majority-rule. The theory of the democratic state is, therefore, to a large extent devoted to a discussion which is germane to Konopczyński's problem; and, whatever one's opinion may be as to the proper relation between democracy and majority-rule, students of the latter have at their disposal a vast body of literature (much of which is in English) to which—as anyone may see from a glance at Starosolskyj's and Stawski's footnotes—they have not given the attention it deserves. And no writer at the present time can afford to neglect such works as Krabbe's *Die moderne Staats-idee*⁵⁵ and C. J. Friedrich's *Constitutional Government and Politics*,⁵⁶ distinguished contemporary contributions to the problem, though neither puts itself forward as a work on majority-rule.

How did the compilers of the bibliography in the *Encyclopedia* happen to overlook the representative works in democratic theory (and anti-democratic theory, for the critics of democracy have often been no less eager than the majority-rule democrats to insist upon the identity between democracy and majority-rule⁵⁷)? The explanation is, in the opinion of the present writer, to be sought in the fact that, although the expressions “majority-rule,” “principle of majority-rule,” “majority principle,” etc., have for a long while been familiar to students of politics and sociology, no attempt has been made to define them with scientific precision—with the result that, to this day, we are without any unambiguous terminological distinction between (a) the *rule* by which (explicitly, as

⁵³J. Rousseau, *Œuvres complètes* (Paris: P. Dupont, 1823), V, pp. 61-242.

⁵⁴*Ibid.*, pp. 243-385.

⁵⁵H. Krabbe, *Die moderne Staats-idee* (Haag: Martinus Nijhoff, 1919).

⁵⁶Carl Joachim Friedrich, *Constitutional Government and Politics* (New York: Harper and Brothers, 1937). It should be noticed that this volume appeared after the publication of Konopczyński's article and the bibliography annexed to it.

⁵⁷Cf. Ruffini Avondo, *op. cit.*, p. 113: “[I] publicisti avversari alla democrazia . . . tendono per lo più ad accollare al principio maggioritario la responsabilità di tutti i mali attribuiti alle istituzioni democratiche.”

with the Dutch chamber, or by tacit understanding, as with the American Senate and the American House of Representatives) organized bodies are committed to decisions by majority-vote, (b) the *theory* according to which political power should be vested in the numerical majority of the "people," and (c) the form of government which the defenders of (b) would like to see adopted wherever it does not yet exist, and continued wherever it does exist. Of the three, (b) and (c) are apparently the most intimately related, since (c) is the state of affairs which (b) enjoins and (b) is the theory which enjoins that state of affairs—since, again, the explicit reference of both is to *politics*, *i.e.*, to the state. It is quite otherwise with (a) since—although (c) is the form of government which results when a *people* adopts (a) as a rule for making decisions, and (b) is a theory which urges that peoples adopt such a rule—(a) is constantly employed in all manner of "groups" which have nothing to do with politics in the ordinary sense of the word, *e.g.*, Boy Scout troops, churches, scientific organizations, business corporations, *etc.* It is, of course, true that to the extent that there is a "government" at all in a Boy Scout troop which has adopted (a), it becomes (in a manner of speaking) an illustration of (c), as, also, that those members of the troop who would, on principle, resist a move to delegate decision-making authority to the Senior Patrol Leader are (in a manner of speaking) exponents of (b).⁵⁸ It is true, too, that an adequate account of (c), or an adequate exposition of (b), would need to take account of whatever the sociologists have to say about (a), as, also, that a complete account of (a) in a sociological treatise would have to take account of what the political scientists have to say about (c) and the political theorists about (b). But, at the limit, (a), (b), and (c) are, as we have stated them, clearly distinguishable from one another, just as, in economics, the principle of competition, the doctrine of laissez-faire, and the competitive system may be distinguished from one another for purposes of discussion. It is, therefore, regrettable that the same term, the "majority principle," has for a long while had to do service for both (b) and (a)—the word "principle" being construed, in the one case, by analogy with (*e.g.*) the "principle of the divine right of kings," and in the other case, by analogy with (*e.g.*) the "principle of primogeniture" (= the legal rule by which an exclusive right of inheritance is assigned to first-born children); and that the term "majority-rule" may denote either (a) or (c) according as we understand "rule" to mean "government" (by analogy with minority-rule) or "law" (by analogy with "rule

⁵⁸Thus such a book as *The Modern Corporation and Private Property*, by A. A. Berle and Gardiner C. Means, (New York: The Macmillan Co., 1934), insofar as it is a plea for the transfer of power in the modern corporation from irresponsible directorates to the shareholders (acting by majority vote on a one-share, one-vote basis), is, in that sphere, a defense of what we are about to define as the doctrine of majority-rule. Whether or not Mr. Berle would favor the transfer of power to make decisions about foreign policy from an irresponsible Department of State to the electorate (acting by majority-vote on any basis) the writer has been unable to learn; but if the argument of the following paragraphs of the text be correct, it would be unwise to make inferences regarding his opinion on the second question from his opinion on the first.

of closure"); and that "principle of majority rule" (or "principle of majority-rule") is used interchangeably with "majority principle" to denote either (a) or (b).⁵⁹ Usually, of course, when we come across one of these expressions we can easily decide which of its possible meanings is intended by reference to the context in which it appears. When Professor Carpenter tells us that "the principle of majority rule is therefore a device which, although it contains no inherent ethical validity, affords a practical means whereby groups of people may reach decisions,"⁶⁰ we may be fairly certain that he is speaking of (a)—although, since it is difficult to conceive of a *device* which possesses "inherent ethical validity," we may at least consider the possibility that he is speaking of (b). When, again, he tells us that "the clearest expression of the majority principle was stated [*sic*] by Frederick Grimke,"⁶¹ and we find the following passage cited as evidence of this fact, we know that he is speaking of (b): If, in laying the foundations of government, our design is to consult the common interests of the whole population, there is no alternative but the rule of the majority. If when the vote is taken, either among the citizens at large, or in the legislative body which represents them, the will of the greater number did not prevail, the minority would be at liberty to act without rule, not merely as regards themselves, but in regard to the majority also.⁶²

When, finally, he tells us that "the evils of majority-rule can never be cured by turning the control of the government over to the minority,"⁶³ we know that he means by "majority-rule" a state of affairs, *i.e.*, our (c). But it is not always so; and Konopczyński's article is an excellent illustration of the way in which an inadequate division of labor between terms can become a positive hindrance both to clear thinking and to fruitful investigation. "Majority rule," he explains, "thus came to be not only a system prevalent in a certain country [= our (c)?] or an institution or a method of voting [= our (a)?] but, except in a few quarters, an absolute and generally accepted concept."⁶⁴ The idea that as a rule truth, reason and justice are on the side of the majority [= our (b)?] became the keystone of the democratic credo."⁶⁵ He is, therefore, not wholly unaware of the distinction we have drawn between the rule which provides that the majority is to make the decisions, the theory or belief that the majority ought to make the decisions, and the form of government which results where the rule of decisions by majority-vote is adopted by a state. Since, however, it seems natural to him to employ the same term

⁵⁹Cf. J. G. Heinberg, *op. cit.*, p. 452: "The term 'majority rule' is as impossible to escape as it is apparently difficult to define with precision."

⁶⁰W. S. Carpenter, *The Development of American Political Thought* (Princeton: Princeton University Press, 1930), p. 163.

⁶¹*Ibid.*, p. 162.

⁶²Frederick Grimke, *Considerations on the Nature and Tendency of Free Institutions* (New York: Derby & Jackson, 1856), p. 36.

⁶³Carpenter, *op. cit.*, p. 163.

⁶⁴Cf. Heinberg, *op. cit.*, p. 457: "The dogma of majority rule [= (b)?] is not a rationalization based upon definite practices but a concept based upon other concepts."

⁶⁵Ladislas Konopczyński, *Encyclopaedia of the Social Sciences* (New York: The Macmillan Co., 1933), X, s. v. "Majority Rule." The writer is indebted to Professor Max Lerner for the information that Konopczyński did not prepare the bibliography appended to his article.

to denote all three (as he has certainly done in the passage here reproduced), the moment never comes at which he feels obliged to take *one* of them as the subject-matter of his essay—with the curious result that his history of the “keystone of the democratic credo” must finally compete for space with an account of the social and economic factors governing the speed with which the device of majority-voting develops, and a discussion of procedural rules in legislative assemblies! Thus, though he has mentioned (b) in the body of his article, and paid his respects to (*e.g.*) Locke and Rousseau, (b) receives no attention at all in the bibliography, which concerns itself exclusively with (a)—*i.e.*, with books and articles by scholars whose bibliographies in turn concern themselves, in the main, with (a).⁶⁶

Now, obviously, we cannot have at our disposal too much information about so important a factor in the associational life of the Western world as the rule according to which (in the phrase we have quoted from Gierke) “der Teil so viel gilt wie das Ganze,” since, as Gierke facetiously points out, the only differences of opinion to which men have not yet sought to apply it are those between husband and wife:

Erst unterhalb der Dreizahl versagt dieses Allheilmittel für Meinungsverschiedenheiten. In der Gemeinschaft zu Zweien gibt es keine Majorität. Die innigste aller menschlichen Verbindungen, die Ehe, muss sich ohne Abstimmungen behelfen.⁶⁷

It would be interesting to know where the rule originated, what shape it has taken in various types of social organization and at various stages in the history of humankind, what (if any) characteristics are common to the groups which have made use of it, whether groups which do use it are (*e.g.*) more “efficient,” or more long-lived, or more capable of retaining the loyalty of their members, than those which do not, whether (as some have contended) it is in fact appropriate only to an “advanced” (*i.e.*, “highly differentiated”) stage of social development, *etc.* Gierke’s *Das deutsche Genossenschaftsrecht*⁶⁸ (from which Stawski and Starosolskyj have borrowed most of their data regarding the history of the rule) is therefore a work for which all students of the social sciences ought to feel a debt of profound gratitude; and Simmel’s “Excursus on the Majority Principle,” in his *Soziologie*⁶⁹ is, for the same reason, a discussion which no student of the social sciences can read without subsequently paying to it the unusual compliment of wishing that it had been many times as long. It can, nevertheless, hardly be overemphasized that such inquiries are, at their best, capable of throwing a very limited amount of light upon our (b) and (c) when these are conceived with regard solely to

⁶⁶Cf. Ruffini Avondo, *op. cit.*, p. 115. “Il principio maggioritario . . . è semplicemente una formola giuridica.”

⁶⁷Gierke, *op. cit.*, p. 565.

⁶⁸Otto von Gierke, *Das deutsche Genossenschaftsrecht* (Berlin: Weidmann, 4 vols., 1868-1913).

⁶⁹Georg Simmel, *Soziologie* (Leipzig: Duncker & Humblot, 1908), pp. 186-197.

states, and a still more limited amount of light upon our (b) and (c) when these are conceived with regard solely to states of a certain kind (*i.e.*, "democratic" states). The following considerations should make this abundantly clear even to the most devoted admirers of Gierke and Simmel:

First, while it is undoubtedly true, as Gierke,⁷⁰ Stawski,⁷¹ Starosolskyj,⁷² and others⁷³ have argued, that the majority-principle (*qua* rule for making decisions) played an important rôle in some of the constitutions of ancient Greece, and, particularly, in that of Athens, none of the Greek city states ever experimented with what the modern "radical" democrat calls "majority-rule."⁷⁴ At Athens, for example, the class of persons who took *no* part in the process by which legislative and judicial decisions were made by majority-vote, was always overwhelmingly larger than that of the active "citizens."⁷⁵ This, however, is another way of saying that in its most "democratic" days Athenian government possessed the essential *characteristicum* of those minority-rule situations to which the modern exponents of (b) object.⁷⁶ A governing minority does not divest itself of its claim to classification as a government *over* the majority merely by settling differences among its own members by majority-vote—wherefore apologists for "judicial supremacy" in the United States have sagely avoided the argument that the United States Supreme Court is a "democratic" institution because the will of five of its justices always prevails over that of four. And, just as majority-rule in the United States extends, at most, to those matters in which the Supreme Court either affirms the will of the majority (by deciding that a statute is consistent with the language and spirit of the constitution), or adopts a policy of non-intervention (by declaring the question at issue "political"), so majority-rule at Athens must have been confined to those social decisions which were *not* made by majority-vote in the assembly—*i.e.*, precisely where most writers who fail to distinguish between the *loi de la majorité* and what

⁷⁰Gierke, "Geschichte des Majoritätsprinzips," p. 8.

⁷¹Stawski, *op. cit.*, p. 69.

⁷²Starosolskyj, *op. cit.*, p. 5.

⁷³Ruffini Avondo, *op. cit.*, pp. 12-13.

⁷⁴*i.e.*, no such régime was ever established. It is quite possible, though by no means certain, that what we could identify as majority-rule may have been envisaged by the leaders of—and might, under less adverse circumstances, have resulted from—the two truly radical governments of the ancient world, the one set up at Sparta by Nabis and the Pergamene "demarchy" headed by Aristonicus and a political philosopher and agitator who has been compared to Lenin, Blossius of Cumae. But the history of these movements discloses only revolutionary dictatorships which for a little while waged a hopeless struggle against the overwhelming might of foreign armies. For an account of the "liberal" movements of antiquity, see R. von Pöhlmann, *Geschichte der sozialen Frage und des Sozialismus in der antiken Welt* (edited by Friedrich Oertel, München: Beck'sche Verlagbuchhandlung, 1925).

⁷⁵Three large groups excluded from citizenship were metics, slaves, and women. It was taken for granted that all of these had to be excluded from participation in government, although it is supposed that the *Ecclesiazusae* of Aristophanes represents a parodic attack on some serious proposal to enfranchise Athenian women.

⁷⁶But cf. John E. E. Dalberg-Acton, *The History of Freedom and Other Essays* (London: Macmillan & Co., 1907), p. 13: "The lesson of their [Athenian] experience endures for all times, for it teaches that government by the whole, being the government of the most numerous and most powerful class, is an evil of the same nature as unmixed monarchy."

Heinberg amiably calls the "dogma of majority rule,"⁷⁷ have been least likely to look for them.

Secondly, the political scientist's estimate of the relevance of data regarding the use of the *loi de la majorité* in churches, business corporations, guilds, etc., to the problem of government by popular majority in the state, must be made with an eye to what Catlin has denominated the distinction between "the voluntary society seeking ultimate ends, values, or goods, and . . . the coercive society seeking immediate or mundane advantages or goods"—a distinction which Catlin attributes to Francisco Suárez and regards as the "core of political wisdom."⁷⁸ The state, whose power the majority-rule democrats would like to see exercised by popular majorities, has always belonged in the past, and seems likely to belong throughout the predictable future, to the second of these two classifications, that of *coercive societies seeking immediate or mundane advantages or goods*; for whatever may be our feeling regarding the Pluralist contention that this thing should not be true,⁷⁹ all that we know of the history of mankind suggests the generalization that man's need for an authority which (within a given territory) exacts obedience to its commands is "ultimate" in the same sense as the need for food and shelter. Government by popular majority [= (c) above] is one of the conceivable methods for organizing that authority, as the "dogma of majority-rule" [= (b) above] is one of the theories about the way in which it should be organized, and as the majority-principle [= (a) above] is the rule of which exponents of (b) would have peoples avail themselves where questions arise as to what that authority is to command and subsequently enforce by coercion. Morris Cohen says:

In practice it is often much more important to come to a decision one way or another than to wait for adequate reasons on which to base a right decision. . . .

Political authority . . . has its basis in . . . [the] need to have practical controversies settled. When we are parties to a suit, we are anxious that the issue be settled justly, i.e. in our favour[!]. But there is a general interest on the part of all members of the community in having controversies settled one way or another. Otherwise we fall into a state of perpetual war or anarchy.⁸⁰

Either, that is to say, we fight, or we live in anarchy, or we maintain an organization for the making and enforcement of these decisions in which there is an interest on the part of all; and Cohen clearly means that there is that in man, as we encounter him in the world about us and in the history of the past, which makes us sure that he will not tolerate

⁷⁷Heinberg, *op. cit.*, p. 453.

⁷⁸Catlin, *Story of the Political Philosophers*, p. 270. Cf. Bertrand Russell, *Power* (New York: W. W. Norton & Co., 1938), p. 37: "It is the characteristic of civilized communities that direct physical coercion (with some limitations) is the prerogative of the State."

⁷⁹Harold J. Laski, *Authority in the Modern State* (New Haven: Yale University Press, 1919), chap. 1.

⁸⁰Morris Cohen, *op. cit.*, pp. 24-25. Cf. Guicciardini's dictum that expeditious adjudication of disputes between citizens is much more important than just adjudication (Francesco Guicciardini, *Ricordi politici e civili* [edited by Pietro Pancrazi, Firenze: Rinascimento del libro, 1929], 209, 269).

the second of these possibilities, and that he will tolerate the first only as a means to the third. And, precisely because this is true, we must assign, to those who would press analogies between decision-making within the context of *political* authority and decision-making within those contexts where a challenge to authority is by no means necessarily a declaration of war or a bid for anarchy, the burden of proving that such analogies are sound. In the absence of such proof, the political scientist's investigations must be prosecuted on the assumption that the state is sufficiently different from other kinds of social groups to deserve separate study, thus on the assumption that the moment has not come at which sociology should be permitted to absorb political science.⁸¹

What is here being called in question is the procedure of those writers who, in discussing the majority-principle (*qua* rule) have failed to distinguish (1) between states with limited electorates (*e.g.*, ancient Athens) and states with highly inclusive electorates (*e.g.*, modern England), and (2) between states and other kinds of social groups—or, to put the same thing in another way, the procedure of those writers who, abstracting from the difference between voluntary and coercive groups on the one hand, and that between states with large subject populations and states without large subject populations on the other hand, have treated the *loi de la majorité* as a proper subject for independent study.⁸² And our thesis is, for the moment, that once the majority-principle is conceived as operating in a state, and, still more, in a state in which power has been entrusted to the whole people, we have the elements of a problem so patently unique that it *must* be set aside for separate investigation.

In order to avoid terminological confusions of the sort to which attention has been called in an earlier paragraph, we shall, in what follows, adhere strictly to this usage: We shall employ the term "majority-principle" as the English equivalent of *loi de la majorité*, and shall not again use it to denote a theory regarding the proper residence of political power. For the theory according to which state power should be entrusted

⁸¹Cf. Catlin, *Science and Method*, p. 177.

⁸²Alone among the writers who have treated the majority-principle (*qua* rule) as a proper subject for investigation, Edoardo Ruffini Avondo (*op. cit.*, pp. 112-113) has recognized a difficulty here: "Non escludo che sia più facile giustificare il diritto di proprietà nel rapporto fra lo scrittore ed il romanzo che sta scrivendo con gli stessi argomenti che lo giustificano nel rapporto fra lo scrittore ed il tavolo su cui scrive, che giustificare [*sic*] il principio maggioritario quando decide fra i più milioni di elettori del presidente degli Stati Uniti d'America con gli stessi argomenti che lo giustificano quando decide fra quei *tres* che bastano a costituire un collegium." Cf. *ibid.*, p. 9: "Ma tutte le storie valgono forse la pena di essere scritte? La storia di un principio così meccanico come quello che regola le manifestazioni collettive di volontà, storia, cioè, di una *pura forma separata dalla sostanza*, che interesse può avere?" (italics mine). He answers, however (*ibid.*): "A questa obiezione molte risposte si potrebbero dare." Cf. *ibid.*, p. 23, where he points out that the intellectual climate of Christianity creates a special situation with respect to the making of decisions: "Nella funzione di eleggere e di deliberare il Cristianesimo sovrappose alla volontà umana la volontà divina. Ciò introduceva—specialmente nell'elezione—un nuovo fattore ideale e trascendente di tanta potenza, che valse a trasportare l'Istituto elettorale dalla sfera del diritto alla sfera della rivelazione." This is well said; and it is noteworthy that the same writer, adopting with respect to the special situation in the church a procedure analogous to that here adopted with respect to states with inclusive electorates, has made it the subject of a separate investigation: Edoardo Ruffini Avondo, "Il principio maggioritario nella storia del diritto canonico," *Archivio giuridico*, XCIII (1925), pp. 15-67.

to popular majorities we shall avail ourselves of the expression "doctrine of majority-rule" which offers (in contrast to "dogma of majority-rule") the not inconsiderable advantage of connoting no *petitio principii* regarding its validity. For the state of affairs which results where the exponents of the doctrine of majority-rule have got their way we shall reserve the term "majority-rule," for the *characteristica* of such a state of affairs "majority-rule procedures," and for its apologists (*i.e.*, the exponents of the doctrine of majority-rule), the expression "majority-rule democrats." Finally, we shall save the terms "majority-rule theory," or "theory of majority-rule," as also their correlate "majority-rule theorists," to denote the search and the searchers for the "principles" or "laws" of majority-rule systems.

It is obvious, in the light of the foregoing discussion, that the faith of the majority-rule democrat involves a good deal more than a belief that decisions regarding the use of coercive power in the state ought to be made in accordance with the majority-principle. For the majority-principle, on this showing, is merely a rule which a *group of given composition* may adopt for the making of decisions. It provides nothing with respect to the qualifications for membership in the group; it provides nothing with respect to the decision-making competence of the group; and it provides nothing with respect to the nature of the questions which are to be submitted for plebiscitary determination by the group's members, or with respect to the machinery for the conduct of polls on such questions as are to be submitted in this manner. It might, as we have already suggested, serve as a rule for making decisions in a state in which the powers of government are exercised by a handful of oligarchs; it might operate in a state which, though extending the right of suffrage to all of its adult citizens, is yet governed in accordance with a constitution which effectively prevents decisions from being made at all except within carefully defined limits (as with the constitution of the United States);⁸³ it might, finally, be adopted in a state whose inclusive electorate is permitted to pass only upon questions of the most trivial character (the power to make other decisions having been lodged elsewhere)—or in a state in which the electorate is consulted so infrequently (as with the choice of the president in the United States)—or in so clumsy a manner (as with the choice of senators in the United States) as greatly to circumscribe its power to control the course of governmental policy. When, therefore, the majority-rule democrat says (as he is fond of saying)⁸⁴ that the majority of the people ought to have their way, he is not merely

⁸³Cf. Herman Finer, *Theory and Practice of Modern Government* (London: Methuen and Co., 1932), I, p. 224: "In America Congress is in a perpetual state of nonage, and the people likewise are bound by a testament made by their fathers."

⁸⁴Cf. Smith, *op. cit.*, p. 370: "The will of the majority ought to be the supreme law of the land."

putting in a good word for the majority-principle. He evidently means that, at the limit, one half minus one of the people ought to accommodate themselves to the wishes of one half of the people plus one;⁸⁵ but since one half of the people minus one together with one half of the people plus one make up the *whole* people, he may be seen to have committed himself, along with his plea for the employment of the majority-principle as a rule of decision, to the notion of an *inclusive electorate*. Since, again, as any student of modern history knows, there is no way to make sure that one half plus one of the people *will* have their way over one half minus one of the people without (a) conducting polls with a view to discovering what *is* the way of one half of the people plus one, and (b) conducting such polls often enough to lay bare changes in the composition (thus, possibly, in the "way") of the majority as they occur, he may be seen to have committed himself to what we may call the *principle of popular consultation*. And, finally, since the majority of the people cannot have their way as a matter of course where decision-making powers have been permanently withdrawn from the whole people (as when the people of the United States are forbidden to take away from such rotten boroughs as Rhode Island and Nevada their equal representation in the Senate), he may be seen to have committed himself to the *principle of popular sovereignty*.

The majority-rule democrat must, in other words, establish the case for universal and (formally) equal suffrage, the case for (formal) popular sovereignty, and the case for (at least some machinery of) popular consultation, along with the case for decisions by majority-vote. He must establish the case for universal suffrage because in the absence of universal suffrage there exists no reason for supposing that the decision favored by a majority of the voters is favored also by a majority of the people—that for equal suffrage because the rule committing the minority to accept the decision of the majority as the equivalent of a unanimous decision obviously has the effect of placing in the hands of *each* voter the power to cast the deciding vote, thus of making all voters formally equal.⁸⁶ He must demonstrate the case for formal popular

⁸⁵Cf. Ruffini Avondo, *Il principio maggioritario*, p. 20, where he speaks of the "fatto giuridicamente incontestabile, che, se vale il principio maggioritario, una maggioranza della metà più uno ha diritti eguali a quelli della totalità."

⁸⁶Cf. Ruffini Avondo, *op. cit.*, p. 8: "L'applicazione del sistema maggioritario presuppone, invero, uno dei principi più giusti ma meno naturali: quello che tutti gli uomini siano eguali fra loro." The passage is significant as an illustration of what happens when an investigator, writing in an age preoccupied with *political* problems, sits down to write about the majority-principle as defined above. Cf. *ibid.*, p. 7: "La comunissima regola, per cui in una collettività debba prevalere quello che vogliono i più e non quello che vogliono i meno, racchiude uno dei più singolari problemi che abbiano affaticato la mente umana." He thus means the rule employed, *e.g.*, by the United States Supreme Court, "un principio così meccanico . . . una pura forma separata dalla sostanza" (*ibid.*, p. 9), the effect of which, however, is merely to make formally equal the members of the particular collectivity in which it is adopted. It is simply not true that the Supreme Court, in handing down a five to four decision, takes for granted the validity of the proposition that "tutti gli uomini siano eguali fra loro." The author never escapes from this confusion; nor do Stawski and Starosolskyj. Cf. *ibid.*, p. 18, where Ruffini takes exception to "la tendenza a confondere la maggioranza con la moltitudine, ed a colpire il principio maggioritario quando si vogliono colpire le istituzioni democratiche!"

sovereignty (*i.e.*, lodgment in the people of the power to determine the scope of its own powers) because, in the absence of such demonstration, the most he can claim for the majority is the power to have its way within the limits of the decision-making competence of the people as a whole—it being improbable that any theorist would entrust to a majority of the people a power which he would withhold from the whole. He must establish the case for popular consultation (*i.e.*, for regular expressions of the popular will) because in the absence of consultation the question whether the majority should be permitted to speak for the whole simply does not arise. And he must establish the case for *all three* because, since they constitute together the context in which he in fact proposes to apply the majority-principle, since, again, objections might well lie against majority-decisions in this context which would not lie against them in other contexts, he can enormously economize time and effort by reaching a previous understanding with his opponents on these issues. To prove the case for majority-decisions in (*e.g.*) the United States Supreme Court is not to prove the case for majority-decisions by an omniscient electorate which includes a large percentage of illiterates; and since it is not, he must avoid all suspicion of assimilating the two questions to one another.

These, then, are the slogans of the majority-rule democrats: formal political equality, formal popular sovereignty, techniques for discovering the (unanimous or divided) popular will, reception of majority-decisions as the equivalent of (though not necessarily equally desirable with) unanimous ones; and it is a matter of some interest that these four slogans not only *can* be separated from one another for purposes of discussion (despite the fact that all are involved in the doctrine of majority-rule), but also, because none of them by any means obviously involves any of the others, must be so separated. A man can, without inviting the charge of inconsistency, defend popular sovereignty and refuse to countenance a proposal that propertyless men and women be admitted to the suffrage. He may defend popular sovereignty and yet balk at its exercise by a mere majority of the people. He may cling to a constitution which is, in effect, a popular mandate prohibiting popular mandates, and defend it on the grounds that it *is* an exercise of popular sovereignty ("We, the people of the United States . . . do ordain and establish,"⁸⁷ *etc.*). In the same way, a man may commit himself to formal political equality without openly abdicating his right to argue, along with Professor Friedrich, that elections are only one (and by no means necessarily the best) way of securing representative (= responsible) officials,⁸⁸ or,

⁸⁷*Constitution of the United States*, "Preamble."

⁸⁸Friedrich, *op. cit.*, p. 253: "It may well be that more recent experiences will lead to a reversal and a corresponding limitation of the use of electoral methods."

along with Jellinek, that "was alle beschlossen haben, kann auch nur von allen geändert werden,"⁸⁹ or, with Laski, that the time has come for us to eliminate the word "sovereignty" from our political vocabulary.⁹⁰ A man might well believe (*e.g.*) annual elections to be the only guarantee against tyranny, and yet insist upon (a) a majority of two-thirds of the voters as the minimum requirement for a popular mandate, (b) a "rigid" constitution limiting popular sovereignty, and (c) voting qualifications calculated to exclude much of the population from the suffrage. And, finally, a man might believe ardently in majority-decisions in plebiscites wherever plebiscites are held, and yet, with Locke, ignore the need for *machinery* for popular consultation,⁹¹ with Pufendorf, wish to withdraw from the majority's competence (*e.g.*) decisions calling for expertise,⁹² and, with certain California property-owners who have lately attracted the attention of the newspapers, wish to deny the vote to recipients of relief.

It would, of course, be easy to go too far in insisting upon the possibility of dealing separately with these four emphases of the majority-rule democrat's faith, precisely because they *are* emphases of a single political faith. The popular sovereignty for which the majority-rule democrat pleads is a popular sovereignty which is to be exercised by a majority of an inclusive electorate; the political equality which he demands is an equality of voting privileges in a situation where majority mandates are popular mandates and popular mandates are law; the machinery for popular consultation upon which he insists is machinery which must be judged in the light of the fact that "snap" majorities may use it to withdraw (*e.g.*) fundamental civil rights—or even to suppress majority-rule. In short, the case for each of the majority-rule democrat's slogans must be stated differently according as it is, or is not, stated with reference to a situation in which the others are taken for granted; and it is with reference to such a situation that the genuine majority-rule democrat will be found stating the case for these slogans.

If it were to be objected, at this point, that what the writer has done is to ascribe to the phrase "doctrine of majority-rule" an unfamiliar and quite arbitrary content, he would make his defense in the following terms:

To define the doctrine of majority-rule in this fashion (political equality plus popular sovereignty plus consultation plus majority-decisions) is, in the first place, to call out into the open, to render intelligible, and to justify an apparently illegitimate procedure of which politicians of the first rank have for a long while availed themselves. If, for example,

⁸⁹Jellinek, *op. cit.*, p. 14.

⁹⁰Harold J. Laski, *A Grammar of Politics* (London: George Allen and Unwin, Ltd., 1928), pp. 44-45.

⁹¹See below, p. 124.

⁹²Samuel von Pufendorf, *De iure naturae et gentium*, vii, 2, 15: "Equidem in decidendis veritatibus theoreticis sententiae non numerantur, sed ponderantur."

the reader will turn to Jellinek's admirable *Das Recht der Minoritäten*, and examine it in the light of the foregoing discussion, he will discover that what is there put forward as an attack on the notion of decisions by majority-vote (= the majority-principle *qua* rule) is primarily, on the one hand, an attack on the notion of sovereignty (what the author calls the rights of minorities being merely *droits du citoyen* which he would like to see placed beyond all possibility of infringement by political authority of any kind), and, on the other hand, an indictment of those inclusive electorates which Jellinek, as long ago as 1896, had seen as the characteristic feature of the democracies of the future. "Die moderne Gesellschaft," he says, "befindet sich in einem immer weiter vorwärts schreitenden Process der Demokratisierung. Mag man nun diese Entwicklung mit Freude begrüßen oder fürchten, keine Macht der Welt ist imstande, diesen geschichtlichen Naturprocess dauernd zu hemmen."⁹³ Like Henry Adams, and, of course, many others, he regards this democratization of modern society as a "levelling" process whose end result will be the elimination not of the valleys but of the prominences in the topography of mankind⁹⁴—as, again, a process of collectivization, in which "immer grösser wird der Antheil bemessen, den das Individuum von seiner Selbständigkeit der Gesamtheit zwangsweise zum Opfer bringen soll."⁹⁵ Both these prospects, he makes abundantly clear, are abhorrent to him in the extreme;⁹⁶ he believes that their realization, over the next one hundred years, will precipitate a major crisis in the history of civilization;⁹⁷ and he unhesitatingly identifies both tendencies with the gradual extension of the sphere of operation of the majority-principle: "Je weiter aber die Demokratisierung der Gesellschaft vorwärts schreitet, desto mehr dehnt sich auch die Herrschaft des Majoritätsprinzips aus."⁹⁸ Mankind's only hope, therefore, lies in "*Die Anerkennung von Rechten der Minoritäten*."⁹⁹

No one, however, can read carefully these closing pages of Jellinek's famous lecture without becoming aware that his real grievance is not against the majority-principle, as he himself has defined it,¹⁰⁰ at all. Nothing, he insists, "kann rücksichtsloser, grausamer, den primitivsten Rechten des Individuums abholder, das Grosse und Wahre mehr hassend und verachtend sein, als eine *demokratische Mehrheit*."¹⁰¹ His quarrel, therefore, lies with democratic majorities, not with majorities as such,

⁹³Jellinek, *op. cit.*, p. 40.

⁹⁴*Ibid.* The geological analogy is his. Cf. Henry Adams, *The Degradation of the Democratic Dogma* (New York: The Macmillan Company, 1919), p. 121.

⁹⁵Jellinek, *loc. cit.*

⁹⁶*Ibid.*, pp. 40-43.

⁹⁷*Ibid.*, p. 43.

⁹⁸*Ibid.*, p. 40.

⁹⁹*Ibid.*, p. 43. Cf. Dalberg-Acton, *op. cit.*, p. 4: "The most certain test by which we judge whether a country is really free, is the amount of security enjoyed by minorities."

¹⁰⁰*Ibid.*, pp. 1-2.

¹⁰¹*Ibid.*, p. 41 (italics mine).

and his reason is that he (equally, he believes, with other "realists") is disillusioned about the common man: "Nur ein der Wirklichkeit gänzlich abgewendeter Mensch kann heute noch den Traum von der Güte und Wahrheitsliebe der Massen träumen."¹⁰² His further reason is that he believes "progress" to depend upon the recognition of a "staats- und gesellschaftsfreien Sphäre der Individuums."¹⁰³

Die Gefahr für die freie Entwicklung der Individualität und der Minoritäten, die ja, wie wir sahen, eng miteinander verbunden sind, ist dennoch gross genug und erscheint umso grösser, wenn man bedenkt, dass aller Fortschritt in der Geschichte seinem Ursprunge nach das Werk von Minoritäten gewesen ist.¹⁰⁴

These, however, are arguments, not against decisions by majority-vote *qua* decisions by majority-vote, but against a political sovereignty which involves authority to withdraw individual rights which he regards as desirable, and against suffrage arrangements which give to the masses of men a voice in political decisions—or, what comes to the same thing, against majority-decisions where such political sovereignty and such suffrage arrangements exist and (because implemented by machinery for popular consultation) can actually affect the course of events. And this means that we must either convict Jellinek of intellectual confusion *vis-à-vis* the issue to which he was addressing himself, or plead in his defense that his confusion was merely verbal and did not lead him astray in the construction of his argument. As a matter of fact, the latter proceeds exactly as it would have done if he had defined the majority-principle as we have here defined the doctrine of majority-rule—*i.e.*, as a complete political faith capable of being broken down into several emphases, only one of which is allegiance to the notion of decisions made by majority-vote. Far from being confused intellectually, Jellinek knew perfectly well what it was that he objected to in the political tendencies of his time, and knew perfectly well what he would like to see done about it. He was, in fact, an old-fashioned philosopher of natural rights, who stood aghast at the thought that shortly individuals would have *no* rights except those vouchsafed to them by popular majorities, and felt that only in America had men learned how to guarantee those conditions in which minorities can discharge their responsibilities as the bearers of civilization. Among modern political innovations, therefore, he could bring himself to admire only the checks and balances and bills of rights and difficult processes of amendment which he found in the American constitutions—and judicial review; and he put the case for these "Minori-tätenschützen" as neatly as anyone ever has. His clear purpose, in the volume in question, is to put to rout those persons who do not recognize

¹⁰²Jellinek, *op. cit.*, p. 41.

¹⁰³*Ibid.*, p. 42.

¹⁰⁴*Ibid.*

the wisdom and necessity of such restraints by attacking the whole of their political creed as he understands it; and the main points of that creed are, as may be seen from the passages we have reproduced, the slogans which we have put forward as the content of the doctrine of majority-rule. The most serious charge that will lie against him is, therefore, that he has (a) placed upon his readers the burden of formulating the creed for themselves, and (b) misled them by applying to it a term (the majority-principle) to which he has assigned a much narrower meaning.

Many writers have followed Jellinek in this respect, urging against the majority-principle objections which are in fact objections to unlimited government and political equality and the plebiscitary determination of public issues; and our point is that while this procedure appears to rest on a confusion of categories, its soundness is nevertheless guaranteed by the unity of the phenomenon (*i.e.*, majority-rule) against which (or, *mutatis mutandis*, in favor of which) they have written.

In the second place, the content here ascribed to the concept of majority-rule is neither unfamiliar nor arbitrary, since not a few reputable writers on politics can be shown to have employed the term in this sense. "We forget," wrote J. Allen Smith, "that when our government was established the principle of majority-rule was nowhere recognized—that until well along into the nineteenth century *the majority of our forefathers did not even have the right to vote*,"¹⁰⁵ thus reserving the term majority-rule for those situations where, as he puts it, the masses have "secured the right of suffrage,"¹⁰⁶ and where provision has been made for "the enforcement of public opinion in the management of public affairs."¹⁰⁷ Nor can he conceive of a majority-rule system in which the majority is hampered in its political action by constitutional limitations enforced by officials not subject to majority-control:

If the will of the majority is to prevail, the courts must be deprived of the power which they now have to declare laws null and void. Popular government can not really exist so long as judges who are politically irresponsible have power to override the will of the majority. . . . The final interpreter of the constitution must be the majority.¹⁰⁸

So, too, with Edward Elliott, who, like Smith, identifies democracy with majority-rule,¹⁰⁹ and like Smith sought to call attention to those features of American government which are incompatible with the latter. "Bills of Rights," he says, "are sadly out of harmony with a spirit which

¹⁰⁵Smith, *op. cit.*, p. 369 (italics mine).

¹⁰⁶*Ibid.*

¹⁰⁷*Ibid.*

¹⁰⁸*Ibid.*, p. 356.

¹⁰⁹Edward Elliott, *American Government and Majority Rule* (Princeton: Princeton University Press, 1916), p. 111.

demands the rule of the majority; they are a species of limitation whose *raison d'être* is gone,"¹¹⁰ thus making the defenders of majority-rule accountable (as we have made them accountable) for a defense of the idea of sovereignty—a sovereignty which is, furthermore, to be exercised by an inclusive electorate¹¹¹ provided with machinery calculated "to make easy the supremacy of the will of the majority."¹¹² Our use of the term "majority-rule" can, therefore, be justified in terms of distinguished precedents.

¹¹⁰Elliott, *op. cit.*, p. 124.

¹¹¹*Ibid.*, p. 60: "It was a logical result of the principle of popular rule that there should be an irresistible demand to increase the number of those who might participate in the affairs of the government."

¹¹²*Ibid.*, p. 132.

CHAPTER II

APOLOGIA FOR THE PRESENT STUDY

THE PRESENT treatise is the first of a series of monographs in which the writer proposes to trace the history of speculation about the doctrine of majority-rule, as defined in the preceding chapter, from the earliest moment at which it can be shown to have assumed the form there attributed to it, down to the present day. For reasons which are not, the writer hopes, altogether arbitrary, he has chosen the political theory of John Locke as representing that earliest moment; and the purpose of this chapter is (1) to make clear to the reader the considerations which have dictated that choice, and (2) to explain the plan upon which the study will proceed.

There is, of course, a certain artificiality involved in speaking of the "earliest moment" at which a doctrine or idea assumed a given form. As G. D. H. Cole has argued:

The form in which men cast their speculations, no less than the ways in which they behave, are the result of the habits of thought and action which they find around them. Great men make, indeed, individual contributions to the knowledge of their times; but they never transcend the age in which they live. The questions they try to answer will always be those their contemporaries are asking; their statement of fundamental problems will always be relative to the traditional statements handed down to them.¹

Even the most startlingly original thinkers, that is to say, differ at most very little from those to whom they are indebted for the concepts they employ and the problems they seek to solve; and any talk of "earliest moments" in the history of political theory must be heard with that fact in mind. Nevertheless, it is because of these small differences between the thought of seminal thinkers and that of their contemporaries and forebears that thought has a history; and the artificiality which attaches to fixing attention upon them is an unavoidable incident of its writing. We therefore make no apology for it, but beg the reader to bear in mind the fact that what we are asserting, with respect to Locke, is simply that the writer has been able to find no earlier trace of a certain "twist" which he gave to certain traditional conceptions by combining them in a different way from his predecessors.

In other words, while the concept of equality had been present in political literature since the time of the Stoics, the concept of decisions by majority-vote since the time of Plato and Aristotle, and the concept of popular sovereignty present (in a form highly similar to that which it assumes in Locke's theory) in such a writer as Althusius, Locke (as

¹G. D. H. Cole, "Introduction" to J. J. Rousseau, *The Social Contract and Discourses* (London: J. M. Dent & Sons, 1913), p. vii.

we seek to show in the following chapters) combines these things into a theory of political right for which the present investigator has been able to find no precedent in political literature. Whether or not that theory is sufficiently like that of the modern majority-rule democrat to justify the use here made of it is a question upon which we must entreat the reader to suspend judgment until he has read the main body of our argument; and we shall attempt nothing more, at the present juncture, than to show why no earlier writer seemed likely to serve our purpose.

The democratic idea, which alone provides a context for a theory of majority-rule (the latter being a left-wing variant of the former), had to wait upon the emergence of the idea of the modern state itself—an event which, in the history of political theory, is now associated with the name of Machiavelli.² It had, also, to await emancipation from the notion that questions about social and political order can be solved with quotations from the Bible, and the kindred notion (so repugnant to Rousseau) that the things of this world do not matter:

La patrie du chrétien n'est pas de ce monde. Il fait son devoir, il est vrai, mais il le fait avec une profonde indifférence sur le bon ou mauvais succès de ses soins. Pourvu qu'il n'ait rien à se reprocher, peu lui importe que tout aille bien ou mal ici-bas. Si l'État est florissant, à peine ose-t-il jouir de la félicité publique, . . . Si l'État déperit, il bénit la main de Dieu qui s'appesantit sur son peuple.³

Finally, democratic theory could not begin to develop until men had learned to challenge the axiom that monarchical government is the only alternative to chaos.⁴

On one or another of these grounds we may eliminate as too early for our purposes certain writers whose names suggest themselves because of distinctively "modern" elements which characterized their thought about politics. Machiavelli, though an avowed admirer of the republican institutions of Rome, reveals in the *Discourses*⁵ a complete incapacity to raise seriously the question of their adaptability to the necessities of the modern state; and, though Rousseau was perspicacious enough to see in the *Prince*⁶ a manual for republicans,⁷ later students have failed

²Sabine, *op. cit.*, p. 351: "Machiavelli more than any other political thinker created the meaning that has been attached to the state in modern political usage. Even the word itself, as the name of a sovereign political body, appears to have been made current in the modern languages largely by his writings."

³Rousseau, *Contrat social*, iv. 8.

⁴Cf. C. Delisle Burns, *Political Ideals* (London: Oxford University Press, 1927), p. 143: "The Renaissance prince is not a tyrant: he is accepted by the majority as at least the less of two evils: arbitrary, non-popular, but effective government and absolute confusion." Cf. Catlin, *Story of the Political Philosophers*, p. 215: "All kings, even ungodly princes, ruled, not absolutely, but by God's will, as Paul had said, since God willed other corrupt men, in a vale of tears, to be ruled. That was a commonplace since Paul's *Epistles*."

⁵The most convenient modern edition of the *Discorsi sopra la prima deca di Tito Livio* and of the other writings is that of G. Massoni and M. Casella, *Tutte le opere di Machiavelli* (Firenze: G. Barbèra, 1929).

⁶Even Italian writers refer to this famous work as *Il Principe*, although the correct title, which Machiavelli must have chosen to emphasize the special nature of his treatise, is *De principatibus*.

⁷Rousseau, *op. cit.*, iii. 6. In his own time Machiavelli's ambitions were doomed to disappointment because princely patrons such as the Medici could not trust a man who had not, in the *Discourses*, concealed his enthusiasm for the republican institutions of ancient Rome, but the implications which Rousseau discovered in the *Prince* seem not to have been discerned by contemporaries.

to find in it any justification for Rousseau's evident belief that its real purpose was to strengthen the hand of Demos against ambitious tyrants. The reader who approaches it without Rousseau's bias in favor of village-pump democracy will not readily attribute to its author any premise other than that peoples must choose between chaos and monarchy. Machiavelli was not only more interested in the effective exercise of sovereignty than in the concept of political right, but he clearly felt—with ample justification, no doubt—that only an authoritarian government was possible in the Italy of his day; and he was not the man to enjoy divagations in search of theoretical truths.⁸

The other great political theorist of the sixteenth century, Jean Bodin, who has been praised as the instaurator of political science because he "took the idea of sovereign power out of the limbo of theology,"⁹ did indeed, in his development of that idea, in some measure approximate the conception which is involved in our doctrine of majority-rule. Sovereignty, he says, in a vocabulary to which the favorite philosopher of the French revolutionaries owes an obvious debt, is one and indivisible, unrestrained by any human power, logically incompatible with laws which cannot be set aside.¹⁰ And, at one point in his discussion of the problems of politics, he seems willing to concede the possibility of lodging such sovereignty in a popular majority:

L'Estat populaire est la forme de Republique, où la pluspart du peuple ensemble commande en souueraineté au surplus en nom collectif, & à chacun de tout le peuple en particulier. Le principal point de l'estat populaire se remarque en ce que la pluspart du peuple a commandement, & puissance souueraine non seulement sur chacun en particulier, ains aussi sur la moindre partie de tout le peuple ensemble.¹¹

But examination of Bodin's work as a whole will reveal not only that he fails to elaborate the idea and discuss it on its merits, but also that, a true son of his age, he regards it as sheer speculative fancy, sometimes on the grounds that it violates the logical requirement of an *indivisible* sovereignty:

Le principal point de la Republique, qui est le droit de souueraineté, ne peut estre, ny subsister, à parler proprement, siñ en la Monarchie. car nul ne peut estre souuerain en vne Republique qu'vn seul: s'ils sont deux, ou trois, ou plusieurs, pas vn n'est souuerain;¹²

⁸Although his great contemporary, Francesco Guicciardini (*op. cit.*, 110), censures him as an impractical idealist because he hoped for political regeneration in a land so decadent as Italy.

⁹Sabine, *op. cit.*, p. 399.

¹⁰Jean Bodin, *Les six livres de la Republique* (Paris: Chez Jacques du Puys, 1577), i. 8. It is to be noted that in his statement of the nature of sovereignty he leaves no room for a concurrence of the subject in the will exercised by the sovereign power: "La souueraineté n'est limitée, ny en puissance, ny en charge, ny à certain temps . . . Le point principal de la majesté souueraine . . . gist principalement à donner loy aux sugets en general *sans leur consentement*" (*ibid.*, italics mine). The only limitations are the prior "lois de Dieu et de nature" (*ibid.*).

¹¹*Ibid.*, ii. 7.

¹²*Ibid.*, vi. 4. He adds the practical consideration that, if sovereignty were reposed in more than one individual the inevitable consequence would be disagreement and dissension; therefore, although "les dangers de la Monarchie . . . sont grands, . . . il y a bien plus de peril en l'estat aristocratique, et plus encore en l'estat populaire" (*ibid.*). It is in the same chapter that, somewhat inconsistently, he apprehends danger from the concurrence of numbers with power in democracies: "Il n'y a point de plus dangereuse tyrannie que celle de tout vn peuple."

and sometimes on the assumption that democracy is practicable only in rude and relatively primitive societies,¹³ in which the simplicity of social relationships diminishes the need for effective government. It is only to be expected, therefore, that Bodin, when he finds it necessary to advert to the majority-principle, provides no theoretical discussion of its validity in a political context, but flatly avers that it is always both noxious and unreasonable:

Les voix en toute assemblee sont comptees sans les peser; et *tousjours* le nombre des fous, des meschants et ignorants est mille fois plus grand que des gens de bien.¹⁴

From this he draws the conclusion that any sort of rule by the people is contrary to natural law and may therefore be disregarded in sober discussions of the government of civilized societies:

L'estat populaire est establi contre le cours, & ordre de nature, laquelle donne le commandement aux plus sages, chose incompatible au peuple.¹⁵

He goes so far as to deny all political competence to the majority of men: Demander conseil au peuple, comme lon faisoit anciennement ès Republicques populaires, n'est autre chose que demander sagesse au furieux.¹⁶

From his summary dismissal of the whole question, it is obvious that Bodin was familiar with nothing comparable to our doctrine of majority-rule.

The Prince was written in the second decade of the sixteenth century, *The Six Books of the Republic* in the eighth. Within approximately the same period fall such influential works as Knox's *Appellation* (1558), Francis Hotman's *Franco-Gallia* (1573), Theodore Beza's *Du droit des magistrats sur les sujets* (circa 1574), Stephen Junius Brutus' *Vindiciae contra tyrannos* (1581), Buchanan's *De jure regni apud Scotos* (1581), Robert Bellarmine's *De potestate summi pontificis* (1610), Juan de Mariana's *De rege et regis institutione* (1599), Francisco Suárez' *Tractatus de legibus ac deo legislatore* (1612), William Barclay's *De regno et regali potestate* (1600), and James I of England's *Trew Law of Free Monarchies* (1598). The movement of ideas through the period may be described in terms of the gradual spread, from religion to politics, of the "revolutionary premise" of Martin Luther. Luther, as is well known, carefully blinded himself to the *political* implications of his revolt against ecclesiastic authority,¹⁷ insisting always upon the Christian's duty to obey his government.¹⁸ The first clean break with the past seems to have occurred with John Knox, who, unlike Luther, had no hope of getting the local authorities on his side in the religious controversy in which he was engaged. "It is," he wrote, "no lesse blasphemie to say, that God hath

¹³"Les peuples du Septentrion ou qui demeurent aux montagnes veulent les estats populaires" (*ibid.*, v. 1). In the same passage, after declaring that these peoples possess no aptitude for commerce, law, or the arts of civilization, he implies that a democracy is not a "Republique" at all.

¹⁴*Ibid.*, vi. 4 (italics mine).

¹⁵*Ibid.*

¹⁶*Ibid.*

¹⁷Sabine, *op. cit.*, p. 361.

¹⁸As, also, did Calvin. Cf. Catlin, *Story of the Political Philosophers*, p. 217.

commaunded Kinges to be obeyed, when they commaund impietie, than to say, that God by his precept is auctour and maintainer of all iniquitie."¹⁹ This challenge to constituted powers is supported, however, by no reasoning that can be identified as political rather than theological, and, though Sabine finds in Knox's projected *Second Blast of the Trumpet* (1558) the elements of the doctrine that "kings owe their power to election and hence are responsible to the people for its exercise,"²⁰ it would be unwise to attach too much importance to a *défi* which Knox put forward on purely theocratic grounds. His fundamental postulate is the dictum that idolatry, *i.e.*, all religious forms which seem to him unauthorized by Holy Writ, must be punished by death. And since "the punishment of idolatrie doth not appertaine to kinges only, but also to the whole people," he reasons that when princes fail to discharge their obvious duty to suppress impiety, only the people remain as an instrument whereby Divinity may condignly chastise the negligent sovereign: "the People are bound . . . to revenge to the uttermost of their power the injurie done against his [God's] Majestie."²¹ It would be vain to seek in this fanaticism even the germ of a political philosophy.

Less stridently theocratic, and more reasonable in tone, are the works of Hotman, Beza, Buchanan, Junius Brutus, and Mariana, all of whom are prepared to contemplate (with, however, widely varying degrees of equanimity) the possibility of resistance to royal authority—and all of whom are interesting, for our purposes, chiefly as illustrations of how far men may go in undermining ideas upon which they have been brought up without really challenging them. Beza, for example, revives John of Salisbury's highly elusive distinction between the lawful monarch and the tyrant, and grudgingly concedes, not to people generally but to the lesser officials in any kingdom, a power to resist tyrants;²² but for him, as for Knox, true sovereignty vests only in God, from whom kings by appointment derive eparchial authority.²³ Hotman, without for a moment raising the question whether some form of government other than monarchy (*e.g.*, a popular government) might with profit to the French people be set up in France, is concerned merely to show (by inference from an ostensibly historical account of pre-Roman and post-Roman Gaul) that the authority of the French king rests upon popular consent, as expressed through popular customs, and was never in the past regarded as absolute *vis-à-vis* those customs.²⁴ Despite the reputa-

¹⁹John Knox, *Works* (edited by David Laing, Edinburgh: For the Bannatyne Club, 6 vols., 1844-1846), IV, p. 496.

²⁰Sabine, *op. cit.*, pp. 360-370.

²¹Knox, *op. cit.*, IV, pp. 504-506.

²²Sabine, *op. cit.*, p. 377.

²³J. W. Allen, *A History of Political Thought in the Sixteenth Century* (London: Methuen & Co., 1928), p. 315.

²⁴François Hotman, *Franco-Gallia seu Tractatus isagogicus de regimine regum Galliae et de jure successionis* (Coloniae: Ex officina J. Bertulphi, 1576). Cf.: Catlin, *op. cit.*, p. 274; Sabine, *op. cit.*, p. 376; Beatrice Reynolds, *Proponents of Limited Monarchy in Sixteenth Century France* (New York: Columbia University Press, 1931).

tion of Junius Brutus as an early democrat, even the *Vindiciae* seems to contain no unambiguous statement of a truly democratic position. Any one of a half dozen meanings could with little effort be wrung from the famous declaration: "Deus reges instituit, regna regibus dat, reges eligit; populus reges constituit, regna tradit, electionem suo suffragio comprobatur."²⁵ No greater lucidity is to be found in his famous reference to a social contract, for the equivocal statements of the author, when subjected to critical analysis, seem to lead only to the conclusion that there is no real contract at all—that "the pactum [between King and people] of the *Vindiciae* is one that cannot be cancelled even by the agreement of both parties. . . . It expresses nothing but the immutable will of God."²⁶

With Mariana²⁷ the idea that royal authority rests upon a *contract* between king and people (present only by implication in Hotman), thus of a contractual obligation on the king's part to discharge responsibilities towards his subjects and of a contractual right on the part of the subjects to resist his authority when he fails to discharge them, takes shape as the major political innovation of the age. Mariana, with his insistence that the function of government is to minister to the needs of the governed, that the king is subject to law, and that law can be changed only by the Estates, is far more revolutionary than the author of the *Vindiciae*; and Buchanan, with his insistence that law takes its rise from the customs of the community, that royal power derives from and is limited by that law, and that the right to resist a king who exceeds his lawful authority inheres in a majority of the people,²⁸ is more revolutionary than either.²⁹ Even Buchanan, however, never emancipated himself from the notion that the problems of politics are merely the problems of monarchy. He did, indeed, develop, and to some extent expound, a concept of popular sovereignty, but he used that concept only to show that there was in the people an inalienable right to delegate governmental authority to individuals, and to recall such delegation if the monarch flagrantly violated the assumed contract:

Omnes nationes . . . hoc communiter sentiunt, quicquid juris alicui populus dederit, idem eum justis de causis posse reposcere. Hoc civitates omnes semper jus retinuerunt.³⁰

²⁵In the English translation of this work (*A Defense of Liberty Against Tyrants* [with an introduction by Harold J. Laski, London: G. Bell & Sons, 1924], p. 119), this passage is rendered as follows: "It is God that does appoint kings, who chooses them, who gives the kingdom to them; now we say that the people establish kings, put the sceptre into their hands and who with their suffrages approve the election."

²⁶Allen, *op. cit.*, p. 319.

²⁷Juan de Mariana, *De rege et regis institutione libri tres* (Toleti: P. Rodericus, 1599). Mariana appears to have owed much to the *De principatu* of Marius Salamontius, which, according to Allen (*op. cit.*, p. 332), was published as early as 1544. The major emphasis of that work, however, seems to be legalistic, rather than political.

²⁸Not, as with Junius Brutus and Mariana, in the lesser magistrates and the Estates.

²⁹George Buchanan, *De jure regni apud Scotos*, the second separately-paginated part of *Opera omnia* (editio Thomas Ruddimannus, Edinburgi: Apud Robertum Freebairn, 1715). On this interpretation of Buchanan, cf. Sabine, *op. cit.*, p. 384; Catlin, *op. cit.*, p. 272.

³⁰Buchanan, *op. cit.*, p. 32.

Nor does he establish this position by arguments more solid than appeal to a consensus of opinion (*omnes sentiunt!*) which clearly did not, even at the time of writing, exist—else, surely, there had been no controversy. Buchanan equates the populus and the majority of the citizens, thus appealing to a sort of doctrine of majority-rule, but his only supporting argument for it is the tautological observation that disagreement precludes unanimity.³¹ We, taught by much subsequent history, are likely to see as important in Buchanan implications which seemed negligible, or at best of purely ancillary interest, to him. Had he regarded the proposition as significant, he would have treated it more critically.

If there is so little of democratic thought in the sixteenth-century writers whom we, for one reason or another, have come to regard as the more "liberal" writers of the age, we can scarcely expect to find many considerations pertinent to our task in the works of their adversaries, whom we have come to regard as the more conservative—although, when applied to the furious polemics and daedalian logomachies of the century, these adjectives become almost as fluid and metastatic as when applied to our own times.³² The Monarchists of the sixteenth-century had to concern themselves but little with the claims of popular government. King James neatly escapes the need for critical discussion by reckoning the logical basis of the ruler's sovereignty among the *arcana imperii*, "wherefore that which concerns the majesty of the King's power is not lawful to be disputed."³³ William Barclay insists, in his laboriously logical treatise,³⁴ on the indivisibility and illimitability of sovereignty, deriving all political authority from God, and flatly denying that such authority can conceivably reside even in a people which has a right to choose its ruler.

The theorists of papal supremacy offer equally little discussion of popular rights apart from religious obligations. Robert Bellarmine, concerned with establishing the supremacy of things spiritual over things temporal, recognizes the people only as an arm, as it were, of ecclesiastical authority, by which the deposition of heretic princes may be enforced.³⁵ And that bitter opponent of the monarchical claims to divine right, Francisco Suárez, despite his influential restatement of the political

³¹*Ibid.*, pp. 34-35. It is interesting to observe that Buchanan thought democracy appropriate to only one context, that of absolute (economic and intellectual) equality: "Natura enim justum opinor, ut, inter eos, qui caetera sunt pares, imperandi & parendi etiam vices sint pares" (*ibid.*, p. 6).

³²We need scarcely remind the reader of the difficulty of classifying by mere dichotomy in an era in which socialism is espoused by Tories, the inalienable rights of the common man propounded by Monarchists, and the capitalist system regarded as inviolable by "Radical Socialists." On the danger of taking for granted the applicability of the concepts of one age to the historical phenomena of another, cf. Starosolskyj, *op. cit.*, p. 11.

³³King James I, *Political Works* (edited with an introduction by Charles H. McIlwain, Cambridge: Harvard University Press, 1918), p. 169.

³⁴*De regno et regali potestate* (Parisii: Apud G. Chaudière, 1600).

³⁵Allen, *op. cit.*, p. 359.

equality of men, finds in the will of God the only source of legislative authority.³⁶

Despite the summary treatment made necessary by our limitations of space and purpose, we may conclude from the foregoing paragraphs that the political thought of the sixteenth century provides no *point d'appui* for a discussion of majority-rule. Although isolated gleams of "modernity" are here and there to be discerned, we may concur in Allen's conclusion that "sixteenth-century theories of sovereignty were, for the most part, fundamentally as theocratic as those of the Middle Ages."³⁷

As we extend our cursory exploration into the following century, we find indeed indications that the question of popular rights obtruded itself ever more vigorously on the attention of political writers. For many decades, however, the question was neither clearly formulated nor unequivocally answered. Out of the *turba scriptorum* who, with discussions and logomachies, treatises and pamphlets, made great din in a century in which political controversy envenomed both sword and pen, there stand forth a few great writers whose works have become classics.

Before the last decade of the century, *i.e.*, before the appearance of Locke's *Two Treatises of Government*, there lived three brilliant legalistic theoreticians of whom even the most hurried survey must take notice: Johannes Althusius (*Politica methodice digesta*, 1603), Hugo Grotius (*De jure belli ac pacis*, 1625), and Samuel Pufendorf (*De jure naturae et gentium*, 1672, and *De officio hominis et civis*, 1673). To these we must add the political writings of Spinoza, and, in England, the republican theory of Harrington (*Oceana*, 1655), the radical revolutionary polemics of John Milton, and the equally radical absolutist speculation of Thomas Hobbes (*De cive*, 1642, and *Leviathan*, 1651).

The great importance of Althusius in the history of political thought has won increasing recognition in recent years, following the indagatory study by Gierke³⁸ and the monumental edition of the *Politica* by Friedrich,³⁹ although the extent of his possible influence on subsequent proponents of democracy, particularly Rousseau,⁴⁰ has not yet been fully investigated. It seems beyond question that he was employing, at a remarkably early date, some of the basic concepts of modern democratic theory, and that his discussion offers many interesting contrasts to the discussions which had taken place in the sixteenth century. Thus, in

³⁶Suárez' book perhaps does, as Catlin observes (*op. cit.*, p. 268) make "the Jesuits the avowed nursing fathers . . . of democracy," but the fosterling is to remain in perpetual tutelage. On the compatibility of democracy with Roman Catholicism, cf. the brilliant article by Sidney Hook, "The Integral Humanism of Jacques Maritain," *Partisan Review*, VII (1940), pp. 204-229.

³⁷Allen, *op. cit.*, p. 513.

³⁸Otto von Gierke, *Johannes Althusius und die Entwicklung der naturrechtlichen Staatstheorien* (Breslau: M. & H. Marcus, 1902).

³⁹*Politica methodice digesta* (edited with an introduction by Carl Joachim Friedrich, Cambridge: Harvard University Press, 1932).

⁴⁰The present writer proposes to make in the near future a study of the similarities in the doctrines maintained by Althusius and Rousseau.

Gierke's phrase, "die Politik des Althusius von der theokratischen Auffassung des Staates sich so gut wie völlig löst."⁴¹

In Gierke's opinion, Althusius introduced one conception which is a *sine qua non* of all truly democratic systems of thought: "Zuerst Althusius wandte auf das dem Volke vindicirte Recht den scharfen Begriff der im Staate nur einmal vorhandenen Souveränität."⁴² In other words, here (in place of the antecedent doctrine that the people had certain rights which limited the extent of their servitude to constituted authority) we encounter a categorical affirmation that true sovereignty (*majestas*) is always resident in the *corpus symbioticum*, i.e., in the people, and that the latter can never alienate it. They can, and in response to the dictates of human nature and social necessity do, delegate the exercise of power to administrative officers, but these officers can never be more than agents acting on the authorization of their principal. They must, therefore, enforce the will of the society. They may, on occasion, rightfully coerce its individual members, but can never coerce the society itself: "jus in singulos non in universos cives habent."⁴³ This, certainly, sounds very much like Rousseau; and Althusius, equally with Rousseau, is open to the charge of having elaborated a legal concept without considering the problems which its application to specific situations might present. He does not, for example, tell us whether or not a large number of individuals (*singuli*), such as a majority, can rightfully be coerced in the name of the society as a whole. But, whatever we may say of Althusius' failure to provide for a situation which may have seemed to him a remote and improbable contingency, this analysis of social obligation was a "discovery" of the first order: "Althusius als der Schöpfer einer eigentlichen theorie des contrat social betrachtet werden muss."⁴⁴

As a matter of fact we are invited, in the course of Althusius' discussion, to contemplate a multiplicity of social contracts. By the *contractus societatis* men bind themselves together in associations, both *consociationes privatae*, such as family⁴⁵ and guild, and *consociationes publicae*, arranged in a sort of hierarchy: commune, province, and state. By their voluntary combination into the largest of these societies, the state, men delegate to that unit a power which, though revocable, is yet a power to take all necessary measures for the public good—a "potestas praeeminens et summa universalis disponendi de iis, quae universaliter ad salutem curamque animae et corporis membrorum Regni

⁴¹*Op. cit.*, p. 60.

⁴²*Ibid.*, p. 144.

⁴³Althusius, *op. cit.*, v. 26.

⁴⁴Gierke, *op. cit.*, p. 99.

⁴⁵In Althusius' valiant effort to explain the family as a legal association we may see the consequence of inordinate devotion to logical formalism, for surely the symmetry of his complex system of associations is too dearly bought when it is obtained by such distortion of one of its component parts.

seu Reipublicae pertinent."⁴⁶ This power he conceives as limited only by certain inalienable rights which natural law guarantees to the individual, and by the competence of the smaller units (from which Althusius' state is by a process of federalization constructed) to decide for themselves all matters which uniquely concern them.

The sovereign people, according to Althusius, delegates the exercise of administrative power not only to the king, or supreme magistrate, but also to the *ephors*, or lesser magistrates, each of whom has jurisdiction over a unit of the federation, and likewise acts as a member of a representative body (the council of ephors) which by majority-vote controls the supreme magistrate's administration of the federated state. Thus, although sovereignty inalienably belongs to the *corpus symbioticum*, the people appear in an active rôle only before a government is instituted and after it is dissolved. After they have (in theory) met in an assembly and formed a government, the people—without transferring their sovereignty—cease to exercise it. Their rights are subsequently protected, *vis-à-vis* the highest magistrate, by the ephors, and *vis-à-vis* the ephors, by the highest magistrate; so that a system of governmental balances is reposed on the "mutua censura et observatio inter regem et ephoros."⁴⁷ If the monarch fails to discharge his duties to his employer, the people, the *jus resistentiae et exauctorationis* is to be exercised by the ephors, who must depose him. Althusius further provides against abuse of power by the ephors by making their mandate from the people equally revocable.

This doctrine of popular sovereignty, coupled with his insistence that even the peasantry must constitute an "estate" and so exercise political power in the formation and direction of the state, lends to the *Politica methodice digesta* an appearance of great modernity, but Althusius seems never to have faced the problem of majority-rule. He is, in other words, interested in delimiting the power of officers by granting to their employers the right to dismiss them at any time, but he does not define the power of a part of the people against another part of the people. The *corpus symbioticum* is apparently an organism whose constituent parts are *ex hypothesi* substantially in harmony,⁴⁸ and a fundamental disagreement between the parts must result in fissure, *i.e.*, dissolution of the organism. But here again Althusius does not consider the possible eventualities. He does, indeed, tell us that when the chief magistrate violates the contract and is able to secure the approbation or acquiescence of a majority of the provinces (so that he cannot be deposed), the provinces unwilling to submit may, acting through their ephors, withdraw from the state and either join another federation or remain independent.⁴⁹

⁴⁶Althusius, *op. cit.*, ix. 19.

⁴⁷*Ibid.*, xix. 100.

⁴⁸Or, to use Althusius' terminology, every *consociatio* depends on the existence of a *communicatio concordiae*.

⁴⁹*Ibid.*, xxxviii. 76.

This right of secession extends also to the smaller components, such as the commune. But Althusius does not answer the really interesting question, What happens when a province (or a majority of provinces) wishes to alter the terms of the contract? Does it have a right to disrupt the social aggregate by demanding to alter the terms of union? Did Althusius really contemplate a series of fissiparous and metastatic societies—one in which, for example, the "estate" of peasants might secede if its members became discontented with the conditions accorded them? And if such a right be granted to the estates, on whom falls the gravamen of the change—since a system of interpenetrating yet independent societies is scarcely conceivable? Has a *consociatio* never a right to coerce dissident members for the preservation of the whole?

That Althusius was not unaware of some of the difficulties which might flow from the right of secession is evident from the care with which he endeavors to explain⁵⁰ that the effect is merely to limit and moderate the exercise of governmental power; *i.e.*, he apparently believes that the members of a society will usually have such interests in common that they will, when faced by the prospect of a dissolution of their society, find some compromise which will enable them to avoid termination of their relationship. But he speaks of the right to secede only in connection with situations in which the social contract has been *broken*, and does not face the possibility that an equally serious situation may arise from dissatisfaction with an existing contract. Perhaps Althusius thought it improbable that such a situation would arise, for if he did debarrass himself of the mediaeval concept of the theocratic state, he had not won equal freedom from the mediaeval concept of the static state, *i.e.*, one whose structure and powers, being deduced from laws of universal validity, admit of no essential alteration. It would appear, therefore, that for all his exaltation of the sovereign people, he was thinking, in legalistic terms, of contracts which are made by the consent of *all* parties thereto,⁵¹ and remain in force only until some one of the parties violates the covenant. In this context, the rights of individuals in a society, whether few or many (*i.e.*, a majority), may be determined by reference to the instrument of incorporation, and no *special* right is inherent in numbers. Thus the question of majority-rule cannot, and for Althusius evidently did not, arise.

The emphasis which Althusius placed on popular sovereignty has necessitated a somewhat detailed discussion of his theory, but we need devote no more than a paragraph to the better-known doctrine of Hugo Grotius; for, however interesting and suggestive its theoretical intricacies

⁵⁰*Ibid.*, xxxviii. 71-75.

⁵¹This is the necessary consequence of Althusius' organic conception of the state. Cf. Gierke, *op. cit.*, p. 26: "Jede Verfügung über die Majestät muss daher von 'universa membra de communi consensu' getroffen werden."

may be, it clearly contains a definition of sovereignty which precludes the possibility of majority-rule. If we may appeal again to the great authority of Gierke,

Während er [Grotius] die sei es reine sei es modifizierte Volkssouveränitätslehre unbedingt verwarf, erhob er sich, offenbar angeregt durch die gerade damals nahezu herrschende Annahme einer doppelten Majestät, zu der Ahnung des Gedankens der Staatssouveränität.⁵²

It is equally obvious that the stringent absolutism of Pufendorf⁵³ concedes no rights at all to a majority *qua* majority in an organized state. The very use of the term *societas inaequalis* to define a state as distinct from the *societas aequalis*, which, being a mere aggregation of persons subject to no sovereign authority other than their own will, is merely *rudimenta civitatis*, suggests the orientation of Pufendorf's thought. Although a majority of the members of a *societas aequalis* may bind all the members of that society and their posterity to a contractual submission to a supreme magistrate, not only the majority but the whole people, by becoming a *societas inaequalis*, cease both to exercise and to possess sovereignty, for by the social contract "populus ut persona moralis expiravit." From this Pufendorf, as is well known, elaborates a monarchically metaphysical state in which the will of the ruler is the general will (*voluntas civitatis*) and not even *omnes excluso Rege* can claim to represent this general will. It is not unfair to say that the only right which Pufendorf concedes to majorities is the right to abdicate.

The political philosophy of Spinoza seems at first sight more promising for our purposes. He deduces, as a consequence of the illimitability of sovereignty, the proposition that the individual, when once he has entered the state, "is no longer his own master; he is bound to obey all the commands of the sovereign authority, however unreasonable he may, in his own mind, consider them to be. . . . His individual will, in fact, is replaced by that of the community at large."⁵⁴ It is to be observed that persons are here subjected to the sovereignty of the community, *i.e.*, the people as a whole, and in this sense Gierke is justified in his statement that the theory "den allseitigen Verzicht der Einzelnen auf das Naturrecht zunächst als Unterwerfung unter die hierdurch zum einheitlichen Körper beseelte Gesamtheit auffasst und somit die übrigen Staatsformen nur als Abwandlungen der zur Normalform erhobenen Demokratie betrachtet."⁵⁵ But the concept of a communal will enables Spinoza to avoid the conclusion, which would otherwise inescapably follow from his proposition that the individual surrenders his rights to society, as, on another level, his attempt to make of politics a natural

⁵²*Op. cit.*, p. 172.

⁵³On Pufendorf, cf. Gierke, *op. cit.*, pp. 88-89; Catlin, *op. cit.*, pp. 430, 431.

⁵⁴Spinoza, *op. cit.* C. E. Vaughan, *Studies in the History of Political Philosophy before and after Rousseau* (edited by A. G. Little, Manchester: University Press, 2 vols., 1925), I, p. 74.

⁵⁵Gierke, *op. cit.*, p. 87.

rather than a normative science led him to place great emphasis on the *effectiveness* of a given government: "In his political theory he tried consistently to reduce rights to natural forces and to show that strong government in the long run must be good government."⁵⁶ Thus to Spinoza popular or majoritarian government must justify itself in terms of *strength* and *efficiency*, not right, and can claim only the merit that it may in certain situations exercise a greater authority and provoke less dissatisfaction (*i.e.*, maintain greater authority) than other forms of government. "The purpose of the State Spinoza . . . finds . . . in the maintenance of peace and security. What maintains this peace is *eo ipso* right."⁵⁷ Obviously, so pragmatic a premise cannot be reconciled with the doctrine of majority-rule as we have stated it in our first chapter.

Although the impassioned eloquence of the only Englishman who was both a great poet and a vigorous and influential politician was displayed in defense of a republican and anti-monarchic régime, we are not astonished to find that a man of Milton's aristocratic proclivities not only formulated no doctrine of majority-rule, but, basing his thought on a system of moral absolutism, regards the approbation of majorities as essentially irrelevant. Indeed, the passion that informs the *Defensio prima* sometimes⁵⁸ leads him very close to an insistence that a majority will most probably err in its decisions. Gooch does not exaggerate when he declares that "the voice of the people was as far from sounding to Milton like the voice of God as to Metternich."⁵⁹

One other republican of the Cromwellian era must be noticed here,⁶⁰ for, as is well known, the ostensibly Utopian *Oceana* of James Harring-

⁵⁶Sabine, *op. cit.*, p. 429. The same preoccupation with forces enables Spinoza to dispense with a discussion of a community's *right* to resist oppressive legislation by the government in power. It is sufficient for him that excessive pressure on a large number of citizens *will* produce an insurrection. This consideration operates as a *practical* limitation on constituted authority. Cf. Vaughan, *op. cit.*, I, p. 77.

⁵⁷Catlin, *op. cit.*, p. 262; cf. Vaughan, *op. cit.*, I, p. 80.

⁵⁸See particularly the fifth chapter. This may be found in the first volume of Milton's *Prose Works* (edited by J. A. St. John, London: George Bell & Sons, 6 vols., 1904-1909). The earlier *Tenure of Kings and Magistrates*, which reveals greater sympathy for the populace, but contains no pronouncement on the rights of majorities, may be found in the second volume of this edition.

⁵⁹G. P. Gooch, *English Democratic Ideas in the Seventeenth Century* (Cambridge: University Press, 1927), p. 206. We may, however, question the correctness of Gooch's statement (*ibid.*, p. 151) that Milton's "sacrifice of the undistinguished multitude to the natural peers of mankind" is to be attributed to his assimilation of Classical political theories. The explanation, we believe, lies deeper than that, amounting to a basic inconsistency which Sabine (*op. cit.*, pp. 511-512) has succinctly pointed out: "With a real passion for individual liberty he united contempt for the intelligence and good will of men in the mass . . . He wholly failed to see that individual liberty is an impracticable ideal if men are unfit to be trusted with a voice in government."

⁶⁰The writings of the political leaders and minor publicists of the Interregnum are historically interesting, and reveal tendencies of sentiment and opinion which not only illumine the conflicting demands which shaped the events of England's great revolution, but occasionally provide remarkable parallels to contemporary tendencies. But such men as Ireton, Lilburne, Hare, Hartlib, Winstanley, Vane, and Rogers, to say nothing of the horde of anonymous pamphleteers, did not elaborate political philosophies. The more religious writers sound the trump of revelation and feel no more obliged than the Hebrew prophets to base their demands on logic, while many of their more secular fellows lose themselves in invective and vituperation, substituting violence of language for divine authority. The more sober writers, even when they are not obviously producing propaganda or writing to conciliate divergent factions, concentrate their attention not on the state, but on the state of affairs in England on the particular day on which they wrote, so that their discussions are implicate with comment on the varying phases of a highly complex historical situation. The most laborious analysis could not extract from them much general theory.

ton⁶¹ was an attempt to elaborate a complete theory of the state. The author of the "first economic interpretation of history,"⁶² laying down the rule that in any stable society the allocation of political power *must* correspond to the distribution of economic resources (*i.e.*, property), and prizing stability as one of the chief excellences of a state,⁶³ obviously could espouse no doctrine of majority-rule without simultaneously proposing an unmitigated economic egalitarianism, if not complete communism. His estimate that a sound government in England could legitimately be based on the approbation of five thousand landowners indicates how far he was from making such a concession. In his state, in which servants and wage-earners are denied the rights of citizenship, and even the majority of citizens have only the power to veto the enactments of an aristocratic senate chosen by an elaborate system of indirect representation,⁶⁴ we may discern a desire to minimize the possibility of real majority-rule.⁶⁵

We shall scarcely expect to find, in so staunch a proponent of the absolute, indivisible, and irrevocable sovereignty of constituted authority as Thomas Hobbes, any comfort for those who would place the direction of public affairs in the hands of a majority. He does, indeed, grant that "men who are in absolute liberty [*i.e.*, anarchy], may, if they please, give Authority to One man . . . as well as give such Authority to any Assembly of men whatsoever."⁶⁶ But he holds that this right ceases when a government has been established:

They that have already Instituted a Common-wealth, being thereby bound by Covenant, to own the Actions and Judgements of one, cannot lawfully make a new Covenant, amongst themselves, to be obedient to any other, in any thing whatsoever, without his permission.⁶⁷

Thus a majority (save at the moment when a society is formed) clearly has no political competence except in a state in which it is the sovereign, and hence has no right—*qua* majority—at all. In other words, as Starosolskyj has acutely observed,⁶⁸ according to Hobbes' system the majority-principle is merely an instrumentality or device, and is on an equal footing with other devices (*e.g.*, the monarchical principle) which states can adopt.

We conclude, then, that if Locke espoused the doctrine of majority-rule, he was the earliest writer to deal with it on a scale sufficiently

⁶¹Cited above, p. 20.

⁶²Catlin, *op. cit.*, p. 301. Cf. Sabine, *op. cit.*, p. 501: "Harrington . . . was not an economic materialist."

⁶³Cf. Gooch, *op. cit.*, p. 248: "Harrington feels that there is no reason why a Commonwealth should not be as immortal as the stars in heaven."

⁶⁴Briefly analyzed by Sabine (*op. cit.*, pp. 505-506), whose summary is more satisfactory than the detailed prolixity of the original. On the "librated" sovereignty of Harrington's state, see Gooch, *op. cit.*, p. 245.

⁶⁵Cf. Sabine, *op. cit.*, p. 507: "Harrington was emphatically not a democrat either in purpose or theory."

⁶⁶Thomas Hobbes, *Leviathan* (London: J. M. Dent & Sons, 1914), ii. 19. Cf. S. P. Lamprecht, "Hobbes and Hobbism," *American Political Science Review*, XXXIV (February, 1940), p. 49 n.: "Hobbes . . . recognized that the sovereign may be one man, several men, or all men. What he had to say about sovereignty is quite independent of his preference for monarchy."

⁶⁷Hobbes, *op. cit.*, ii. 18.

⁶⁸Starosolskyj, *op. cit.*, p. 77.

ambitious to merit our attention; and we propose, in the following pages, to consult him on each of the four problems which, in our first chapter, we have shown to be involved in it. We shall devote a chapter (Chapter VI) to Locke's views on popular sovereignty, a chapter (Chapter VII) to his views on the right of the majority, a chapter (Chapter VIII) to his views on political equality, and a chapter (Chapter IX) to his treatment of the problem of popular consultation. Since, however, the conclusions at which we shall arrive in Chapters VI, VII, and VIII are sharply at variance with prevailing notions about Locke's political theory (as also with the conclusions which the writer had expected to document when he began his study of Locke), it has seemed advisable, for reasons of strategy, to raise certain questions about the validity of those notions before directing the reader's attention to the coincidence of outlook between Locke and the majority-rule democrats. For, as we point out below, current misunderstandings about the bearing of Locke's philosophy upon the debate about majority-rule must be explained less in terms of a failure to take notice of what Locke said about the problem (the relevant excerpts from his work having been frequently reproduced and commented upon in the literature of the subject) than in terms of a widely shared conviction that he simply couldn't have meant them. The persistence of this conviction is related, on the one hand, to the (partially correct) belief that the right of the majority cannot keep house, in a well-ordered mind, with individualism, natural rights, or objective moral standards, and, on the other hand, to the belief that Locke's major commitments, as a political philosopher, are to these things. We therefore attempt, in Chapters III and IV, to prepare the reader's mind for the evidence he will encounter in Chapters VI, VII, and VIII, by directing attention to the *collectivist* elements in Locke's thought, against the background of which his views on majority-rule appear less flagrantly incomprehensible than they have always seemed to those who have taken account only of its individualist emphases. In Chapter V we lay bare the source of Locke's indecision (as between the collectivist and the individualist views of society) by examining in detail his treatment of the law of nature, and by calling attention to certain inconsistencies in his account of it. In Chapter IX we discuss the major divergence between Locke's political philosophy and that of more recent majoritarians, namely, his cavalier disregard for the problem of providing institutional implementation for that right of the majority which (as we believe) takes, as our study proceeds, increasingly distinct shape as Locke's *real* answer to the problem he sets himself at the beginning of his major work on government. The argument of these nine chapters involves, to be sure, a certain vindication of the current view that, on his own principles, Locke could not have supported majority-rule. One of the central diffi-

culties of his position (as we present it) will be shown to lie in the fact that, having asserted that subjection to personal authority is illegitimate, he subsequently ignores the truth that majorities, no less than minorities and dynasties, are made up of *persons*, who do not, *ceteris paribus*, by becoming members of a majority divest themselves of the (all too human) tendency to use their power (over individuals and minorities) selfishly. In this sense, at least, we shall concede that Locke's enunciation of the doctrine of majority-rule is a violation of his own principles. But we shall not attempt, on these grounds, to explain it away.

If our study ended with Chapter IX it would leave Locke's theory, so to speak, "up in the air"—*i.e.*, precisely where (in the opinion of the present writer) Locke's critics have hitherto been content to leave it. Previous accounts of Locke's theory have, that is to say, been indefinite with respect to the most interesting question which we can raise about any political theory, namely: What is its practical bearing? Like many current definitions of democracy, these accounts speak both of individual rights and of decision-making power in the hands of the majority, without giving any indication as to which is to take precedence over the other in case of a conflict between them. Assuming that (in a democracy, or in Locke's system) *some* rights inhere in individuals as a matter of course, who is to say what those rights are? Assuming that (in a democracy, or in Locke's system) there are certain rights which the majority cannot rightly withdraw from their individual subjects, does the democratic, or the Lockean, solution forbid exercise by the numerical majority of the power to define those rights⁶⁹—or does it not? And if it does, where does that power rightly reside? Those who, in defining democracy, refuse to identify it with unlimited majority-rule, are, we submit, left with no unequivocal answer that they can give to the last of these questions; and so, too, are those who refuse, in describing Locke's political system, to equate it with unlimited majority-rule. They leave it, as we have already suggested, "up in the air."

We are not, be it noted, denying that both elements, indefeasible individual rights (which are, of course, only a shorthand expression for objective moral standards) and decision-making power in the majority, are present in Locke's system. Our point is that Locke would entrust to the majority the power of defining individual rights, and that the question of how a man who insists upon objective moral standards can

⁶⁹We assume here—what is apparently more obvious to the writer than to the friends with whom he has discussed the problem—that the notion of rights which the majority has no right to withdraw, and the notion of lodging power in the hands of the majority to say what rights are of that nature, are not obviously incompatible. *I.e.*, it is true of governing majorities as of governing minorities and governing monarchs, that their conduct is limited *on one side* by their own standards of right and wrong, true, too, that these standards provide guarantees (of a kind) for the governed. The question whether the standards of popular majorities provide adequate guarantees for individuals and minorities is one that the writer would not lightly answer in the affirmative, but it is not a *question mal posée*.

have brought himself to adopt a frankly majoritarian position is itself one which demands attention. In Chapter X, which we entitle "The Latent Premise," we address ourselves to this question, and put forward (with, as we hope, all necessary caution) an hypothesis regarding the inarticulate premise which enabled Locke (in common with many another majority-rule democrat) to attempt—with an apparently clear conscience—to have it both ways with rights and majorities.

It would, in the light of this account of the direction in which the present study will move, be less than candid to describe it as *merely* a report of what Locke had to say about our doctrine of majority-rule. With a reluctance which is amply guaranteed by the prestige and authority of the critics with whom he has been obliged to take issue, the writer here puts forward what (as he is well aware) *malgré lui* has become a *reassessment* of Locke's position in the history of political philosophy. If it were to be objected that no such reassessment was needed, that there is a strong presumption against anyone's having found, at this late date, anything new in an author whose political writings have been available to students for many generations, and that, in any case, the verdict of the many patient studies which have been devoted to Locke's political theory in the past is not lightly to be set aside, he would make the following answers:

(a) The reassessment here put forward is one to which the writer has been driven by careful examination of Locke's own language, and, though possibly incorrect, it has *not* been lightly made. For the rest, the question as to whether or not it is possible to turn up something new in a "classic" which students of politics have been reading for a couple of centuries is one which must be decided on the evidence rather than on the basis of *a priori* calculation of probabilities.

(b) Although Locke's political writings have indeed been readily accessible through many generations, it would be easy (if we may judge from the bibliographies) to exaggerate the amount of intensive analysis they have received at the hands of professional students of law and politics. "Locke's *Essay on Civil Government*," wrote Sir Frederick Pollock more than two hundred years after its publication, is well-known, and is probably the most important contribution ever made to English constitutional law by an author who was not a lawyer by profession; certainly there is nothing to be compared to it until we come to Bagehot in our own time. Still I do not know that it has ever been analysed by an English lawyer with reference to its immediate purpose and circumstances. *In fact Locke's political doctrine holds quite a secondary place in such accounts of Locke as are generally current in the hands of the educated public.*⁷⁰

As recently as 1918 Professor Lamprecht wrote that it was the purpose of his book on Locke's moral and political philosophy "to supply a lack

⁷⁰Sir Frederick Pollock, "Locke's Theory of the State," *Proceedings of the British Academy*, 1903-1904, p. 237 (italics mine).

in the existing discussions,"⁷¹ and, though he could point to one previous monograph on Locke's ethics—M. M. Curtis' *Outline of Locke's Ethical Philosophy*—he had found none on Locke's politics.⁷² "Locke," he observes, "has always held an important place in all histories of modern philosophy. . . . [Nevertheless] his moral theories, and to some extent his political theories, have been . . . neglected."⁷³

Paradoxically, it is Locke's very importance in the history of modern philosophy which seems to provide the readiest explanation for this phenomenon. "*The Essay on Civil Government*," Pollock explains, "has been overshadowed by the *Essay on Human Understanding* and the *Letters on Toleration*";⁷⁴ and Lamprecht, who accepts this conclusion, continues:

It has been his epistemology to which attention has been chiefly directed. . . . Such disproportionate emphasis upon one phase of his contribution to philosophy is not altogether surprising. Epistemological problems have been the storm center of controversy both in England and Germany ever since the *Essay concerning Human Understanding* precipitated them in so striking a form.⁷⁵

For a long while, that is to say, students of Locke's philosophy were so busy digesting the problems which he posed regarding "the inevitable limits of human knowledge, and its validity and value within those limits,"⁷⁶ that they had little time left for study and analysis of his political writings; and, while such an explanation of the relative neglect of the latter might easily be pressed too far, and by no means accounts for the failure of critics more interested in politics than in epistemology to turn their attention to Locke's *Two Treatises*, it throws some welcome light on the fact that the latter have been—as compared with, *e.g.*, Rousseau's *Contrat social*—little written about.

Whatever the explanation of the phenomenon we have just mentioned may be, the present writer can only corroborate Sir Frederick Pollock's and Professor Lamprecht's report on the condition of the literature on Locke's politics, with the additional observation that neither of them may properly be said to have filled the bibliographical lacuna in question. Lamprecht's study is invaluable as an account of Locke's ethics; but his Book III, entitled "The Social and Political Philosophy of John Locke," by no means measures up, either as exposition or criticism, to the sustained excellence of the earlier parts of his study. Pollock can, at most, be said to have exploited to the fullest extent the possibilities of a brief

⁷¹S. P. Lamprecht, *The Moral and Political Philosophy of John Locke* (New York: Columbia University Press, 1918), p. iii.

⁷²*Ibid.*

⁷³*Ibid.*, p. 1.

⁷⁴Pollock, *loc. cit.*

⁷⁵Lamprecht, *loc. cit.* It is interesting to notice, in connection with what we have said in the preceding section (a), that not a little of the controversy precipitated by the *Essay* has turned upon the question of what Locke meant to say in it. Cf. A. Campbell-Fraser, "John Locke as a Factor in Modern Thought," *Proceedings of the British Academy*, 1903-1904, p. 225: "Opposite interpretations were put upon its central thesis, by Stillingfleet and Leibniz, in Locke's lifetime; afterwards by Voltaire and Condillac in France, by Reid and Stewart in Scotland; more recently by Coleridge, Cousin, and Green among the many who read the *Essay* as an expression of incoherent sensuous empiricism, and by Webb and Taggart, as well as recent foreign critics, who lay stress on its implied recognition of intuitive reason."

⁷⁶Lamprecht, *loc. cit.*

lecture before a learned society; and while here, as always, he brings to bear upon his problem a store of learning and wisdom which the subsequent investigator must envy and admire, he would have been the first to agree that his treatment of it was less than exhaustive. During the years that have elapsed since Pollock's lecture, innumerable brief discussions of Locke's political theory have found their way into books on other subjects, and, of course, into such new histories of political philosophy as have seen the light of day. Of these, the most ambitious is the chapter on Locke in Vaughan's posthumous *Studies in the History of Political Philosophy*, to which (as, also, to Lamprecht's study) we shall refer frequently below. But the authors of these discussions have followed unquestioningly in the beaten path of Locke interpretation; and we may say of the *Essay Concerning the True Original, Extent and End of Civil Government* (with which we are to deal in the following chapters) what Campbell-Fraser has said of the *Essay Concerning Human Understanding*:

For a long time [it] . . . has been spoken about more than studied; and some, even historians of [political] philosophy, have dealt with it largely at second hand, or at least *without that candid comparison of the parts with the spirit and design of the whole which is needed in the case of a book that approaches high questions in the inexact language of common life.*"

And, that being the case, there is, properly speaking, *no* presumption against a tardy investigator's turning up something new in it.

(c) Our reassessment of Locke's theory—if valid—has implications which are not without practical importance. The name of Locke, associated as it is in men's minds with such values as tolerance, freedom of inquiry, love of truth, *etc.*, has become a *symbol* in the continuing struggle for power under the American constitution; and, as such, has been extremely useful to those who prefer government by judiciary to majority-rule.⁷⁸ We are not suggesting, we hasten to add, that the tide of battle would long ago have turned against judicial review but for the prestige of Locke's name, or even that the course of the struggle would have been perceptibly different had Locke's name not been used as a weapon in it. But no one who is aware of the amount of energy which has been devoted to the task of "proving" that the framers of the constitution of the United States intended that document to provide for judicial review⁷⁹ will question the fact that men of an extremely practical turn of

⁷⁸*Ibid.* (italics mine).

⁷⁹Just as the name of Rousseau, associated as it is in men's minds with sentimentality, state-worship, and the complete subjection of the individual to his society, has been hurtful to the cause of those who prefer majority-rule to government by judiciary. While in the text of the following chapters we avoid the problem as much as possible, we shall devote occasional footnotes to the purpose of establishing a *prima facie* case in favor of a parallel reassessment of Rousseau's position. His language, like Locke's, offers little justification for the use to which his name has been put in this connection. For a typical instance of that use, cf. C. J. Friedrich, *op. cit.*, p. 481.

⁸⁰Another interesting example is what Sidney Hook calls the "Kampf um Marx"—the dispute, among the different branches of the socialist movement, as to which has the clearest title to the adjective "Marxist," thus the clearest title to exploit the symbolic value of Marx's name.

mind *do* attach importance to such considerations—and our point is that those who have sought to associate the framers of the constitution with judicial review have had a comparable interest in establishing the association of ideas (on which we have all been brought up) between the framers and John Locke, thus, ultimately, between judicial review and Locke's theory of natural rights. If, as we argue below, Locke's natural rights are merely the rights vouchsafed by a legislature responsible to the majority, the opponents of judicial review can easily capture for themselves a symbol which might prove extremely useful.

Less important from a practical point of view, but equally interesting, are the implications of our interpretation of Locke with respect to the official account of his "influence"—not only upon the authors of the Declaration of Independence and the framers of the constitution, but also upon the broad sweep of American political theory. It would be easy to document the statement that the *Second Treatise* has, beyond any other European work on politics, affected the character and tendency of this phase of American thought; and, if the present writer had found in Locke the (ultimately) anti-majoritarian emphasis which he had been led to expect, this Introduction would, no doubt (in view of the dearth of majoritarian theory in the United States), have exploited this possibility to the fullest extent. Since, however, the proposition that such-and-such a writer was profoundly influenced by Locke almost always turns out to mean that the writer in question said things which bear a greater or lesser resemblance to what Locke is supposed to have said,⁸⁰ and since the thesis of the present study is precisely that Locke did not *say* the things he is supposed to have said, we are obviously in no position to insist upon the importance of Locke's influence upon American ideas. That this is not unfair to the available documentation on Locke's influence in this country, that, too, the thesis of the present study raises interesting questions regarding the accuracy of the things we are accustomed to read about Locke's influence in America, may be seen from the following excerpt from so careful a writer as Vernon Parrington:

James Kent, whose long life and ripe legal learning were devoted to upholding what he conceived to be the ultimate principles of law and politics, was the chief thinker of the transition days of New York. A disciple of Locke and Blackstone, remodeling seventeenth-century liberalism into eighteenth-century conservatism, he was concerned to erect the barriers of the Common Law about the unsurveyed frontiers of the American experiment, *assigning exact metes and bounds beyond*

⁸⁰Our point is that it would be desirable to speak of "influence" only where (as, e.g., in the relation between Rousseau and Kant) there is evidence not only that the later writer thought what the earlier writer thought, but also that he came to think as he did as a result of the earlier writer's persuasiveness—or, at least, that the later writer had actually read the earlier. Cf. Francis G. Wilson, *The Elements of Modern Politics* (New York: McGraw-Hill Book Co., 1936), p. 120: "When we recall the fact that the Supreme Court of the United States still refers occasionally to the 'social compact' and that it still thinks of 'fundamental rights,' it is not difficult to grasp the tremendous historical significance of the political ideas of Locke." But cf. *ibid.*: "The theory of Locke had a profound influence on American political thought. While Jefferson read the works of the great Cardinal Belarmine, *he read more intensely the English thinkers, notably Locke*" (italics mine).

which it should not go. Like John Marshall and Joseph Story *he was expert in devising legal springes to catch unwary democrats*, and while the Jeffersonians were shouting over their victories at the polls, he was engaged *in the strategic work* of placing the Constitution under the narrow custodianship of the English law.⁸¹

For (as we show below) Blackstone, whose name Parrington links with Locke's, objected to Locke's theory on precisely the grounds that it did *not* assign metes and bounds to popular government (or set springes for unwary democrats)—and it is to Story that we shall have to turn, at the end of our study, for the most extreme enunciation of the doctrine of majority-rule that is to be found in the (post-Lockean) literature of the subject!

It remains to add that the writer's chief purpose, in the following chapters, is neither to reassess Locke's position in the history of political theory nor to discover what he had to say about the four problems involved in the doctrine of majority-rule—the two purposes which he has, thus far, avowed—but to throw what light he can upon the much wider, much more important question of whether or not that doctrine can be defended upon rational grounds. The reader will, he hopes, bear this in mind as he finds his way through several lengthy critical discussions which would be quite out of place in a study of primarily historical orientation.

⁸¹Vernon Louis Parrington, *Main Currents in American Thought* (New York: Harcourt, Brace and Company, 3 vols., 1927), II, pp. 197-198 (italics mine). If Parrington had read Locke as closely as he read other writers, he would have known that Locke carefully defined "property" to include life and liberty as well as estate, and would not have helped to give currency to the following misapprehension about Locke's "influence": "[Kent] accepted the dictum of Locke that 'the great and chief end . . . of men's uniting into commonwealths, and putting themselves under government, is the preservation of their property'; and believing that the English Common Law was the securest of all agencies devised to safeguard the subject in the enjoyment of his property rights, he made no difficulty in imposing that law upon the Constitution" (*ibid.*). Cf. *ibid.*, I, p. 189, where Parrington sets down what he takes to be the gist of Locke's theory.

PART TWO

LOCKE'S DOCTRINE
OF MAJORITY-RULE

CHAPTER III

THE PRINCE OF INDIVIDUALISTS

IF A PLEBISCITE were to be conducted among contemporary students of political theory in order to discover—*via* majority-rule procedures—their collective opinion as to whether or not John Locke was an extreme majority-rule democrat, it seems highly probable that the vote would be in the negative. Locke is one of those political philosophers whom the enterprising scholar may safely expound without becoming personally acquainted with his writings. His thought has long since been summarized by critics and historians who can hardly be supposed to have misrepresented it; and those summaries clearly show him to have been a theorist who *on his own principles* could not have advocated unrestricted majority-rule. Rousseau is another such philosopher; of his thought also we possess summaries, and since these reveal him as a man who *on his own principles* could not have advocated anything except unrestricted majority-rule, a vote about his claim to the title of extreme majority-rule democrat would almost certainly produce the opposite result.¹ They are both accounted writers upon whom we could depend—if ever (in the phrase which Morris Cohen² applies to Rousseau alone) we were to “take the unusual course of actually reading [them]”—not to say anything surprising on the subject of majority-rule.

According to the current summaries,³ Locke is, above all, the “prince of individualists,”⁴ the philosopher of those individual rights of which no man can (even if he chooses to) divest himself, the exponent of that ultimate “right of revolution” to which minorities may—with the approval

¹Cf. Friedrich, *Constitutional Government*, pp. 340-341: “One hundred and fifty years ago, the theory of abstract democracy reached its abstract perfection in the glittering generalizations of Jean-Jacques Rousseau. The great French Revolution, as well as the dictatorship of the First Napoleon, is anticipated in its brilliant passages about the unlimited power of the sovereign majority No wonder that Communism, Fascism, as well as Bonapartism, should have felt satisfied when assured approximate majority support.” In fairness to Professor Friedrich, it should be noticed that he has subsequently reinterpreted Rousseau, and found him to be an exponent of rule by qualified majorities. He writes now (“One Majority Against Another,” *Southern Review*, V [1939], p. 45): “Does Rousseau mean by a majority a majority of one [an ‘approximate’ majority]? Far from it.” Cf. Saripolos, *op. cit.*, p. 213: “Rousseau se rendait parfaitement compte de l’inadmissibilité théorique et des dangers pratiques de la loi de majorité quant à la liberté et la souveraineté des citoyens. Voilà pourquoi il voulait . . . restreindre, autant que possible, les applications de cet expédient injustifiable en droit.” We shall attempt, in occasional footnotes through the following pages, to throw some light upon Rousseau’s position with regard to majority-rule.

The view now current in academic circles regarding the respective positions of Locke and Rousseau on the question of majority-rule emerges very clearly in the following passage from Eduard Heimann, *Communism, Fascism, or Democracy?* (New York: W. W. Norton & Co., 1938), pp. 54-55: “Since the minority is a part of the people, the merger of . . . two principles is logically necessary and has always suggested itself much more readily in history than the reconciliation of the two underlying philosophies developed by Rousseau on the one hand and by Locke and Montesquieu on the other. Both ways must be combined in any modern image of democracy; we have come to regard majority governments working under elaborate constitutional limitations as the only adequate form of political democracy” (italics mine).

²Cohen, *op. cit.*, p. 402.

³Cf., for a typical example, Vaughan, *op. cit.*, I, pp. 130-203. Summaries of the kind the writer has in mind are to be found in all the standard works on the history of political theory.

⁴*Ibid.*, I, p. 156.

of all reasonable men—make their appeal when majorities grow tyrannical. Locke “begins” by positing the existence of a state of nature, the distinguishing feature of which is the complete absence of organized government. Hobbes, before Locke, had held that in their natural state men were engaged in a war of all against all; and Locke, against Hobbes, held that—save for an occasional supervision of a “state of war”—their natural condition was one of peace and goodwill. Hobbes, before Locke, had held that such things as “rights” and “property” are inconceivable in the state of nature, and can arise only after man’s entrance into civil society; Locke, against Hobbes, held that men in the state of nature are the subjects of certain *natural* rights, e.g., “to order their actions, and dispose of their possessions and persons as they think fit . . . without asking leave or depending upon the will of any other man.”⁵ Respect for these rights Locke conceived to be enjoined by a law of nature, “as intelligible and plain to a rational creature and a studier of that law as the positive laws of commonwealths, nay, possibly plainer. . . .”⁶ And, but for the inconvenience of having no common judge or superior to whom disputes arising under the law of nature might be referred, Locke thought men might well have chosen to remain in the state of nature indefinitely:

If man in the state of Nature be so free as has been said, if he be absolute lord of his own person and possessions, equal to the greatest and subject to nobody, why will he part with his freedom, this empire, and subject himself to the dominion and control of any other power?⁷

There being no common judge, however, their rights were not in fact secure, and in the fullness of time men did become willing to emerge from the state of nature into the civil state. Since, however, one of the rights which each possessed in the state of nature was that of being bound only by his own consent, the transfer could be accomplished only by means of a compact. They therefore agreed together to establish a common superior to decide disputes between them, and the state of nature (as between the parties to the compact) ceased. Locke is, as the summaries present him, very clear as to the purposes of the compact: “The great end of men’s entering into society [is] . . . the enjoyment of their properties [= their rights] in peace and safety.”⁸ They entered “only with an intention in every one the better to preserve himself, his liberty and property (for no rational creature can be supposed to change his condition with an intention to be worse).”⁹ Furthermore, the form of the compact must not violate that further provision of the law of

⁵John Locke, *Essay Concerning the True Original, Extent and End of Civil Government* (reprinted in *Of Civil Government* [edited by William S. Carpenter, London: J. M. Dent & Sons, 1936], pp. 117 ff.), ii. 4. In subsequent citations of this work, we shall give only the chapter and section numbers (according to this edition).

⁶ii. 12.

⁷ix. 123. Why indeed?

⁸xi. 134.

⁹ix. 131 (*italics mine*).

nature according to which "a man, not having the power of his own life, cannot by compact or his own consent enslave himself to any one, nor put himself under the absolute, arbitrary power of another."¹⁰ The "common superior" which resulted from the compact accordingly possesses powers of a highly limited character. It has only the power which the parties to the compact assigned to it—i.e., a power which was defined beforehand in the light of that *sole* intention of the parties to preserve themselves and the liberties which they enjoy under the law of nature:

It is a power that hath *no other end* but preservation, and therefore can never have a right to destroy, enslave, or designedly to impoverish the subjects; the obligations [thus also the "rights"?] of the law of Nature cease not in society, but only in many cases are drawn closer, and have, by human laws, known penalties annexed to them to enforce their observation. Thus the law of Nature [thus also natural rights?] stands as an eternal rule to all men, legislators as well as others. The rules that they make . . . must . . . be conformable to the law of Nature—i.e., to the will of God.¹¹

The common superior created by the compact is not, therefore, "sovereign" in any intelligible sense of that word; sovereignty, as in *Lochner vs. New York*,¹² belongs to individual rights and to that law of nature (or constitution) which defines them. The summarizers can (and do), therefore, take cognizance of Locke's assignment of *some* decision-making power to the majority without giving rise to any confusions between Locke's position and the position of that absolutist of majority-rule, Jean-Jacques Rousseau. The majority is to make decisions, but its competence is bounded on all sides by the "inalienable" rights of individuals and minorities. The majority cannot withdraw these rights, since if it were to withdraw them it would be exercising over the minority a power which the latter, under the law of nature, could not rightfully have given up.

Such is, we suggest, the theory attributed to Locke by most recent writers on political philosophy. It is, admittedly, a theory which leaves no room for the doctrine of majority-rule as defined in our Introduction; it is, again, one which contains no surprises for the American student who knows that Locke was the favorite philosopher of the authors of the American Revolution,¹³ who expects as a matter of course to find in Locke the basic principles of the form of government which has obtained in the United States since that revolution, who knows, finally, that Locke's real purpose in inventing his theory was to "justify" the Revolution of 1688—a revolution which, on anybody's showing, postponed until the nineteenth century, or until the twentieth, or until the Greek kalends, the erection in England of a system of genuine majority-rule. It is a theory which coincides nicely with the doctrines emphasized by the same writer

¹⁰iv. 22.

¹¹xi. 135 (italics mine).

¹²198 U. S. 45 (1905), where it was held that a maximum-hour law for bakers was an "unreasonable, unnecessary and arbitrary interference with the right and liberty of the individual baker to contract in relation to labor." Cf. *Coppage vs. Kansas*, 236 U. S. 1 (1915).

¹³Parrington, *op. cit.*, I, p. 189.

in the *Letters on Toleration*. It is a theory which, by regarding society as a collection of "atomistic," i.e., discrete individuals, does precisely what we should expect from the gifted author of the *Essay Concerning Human Understanding*. It is a theory which lends itself to ready documentation with apparently unambiguous passages from *An Essay Concerning the True Original, Extent and End of Civil Government*.¹⁴ It can, nevertheless, be shown to bear no relation whatever to the central argument of that essay; and it must be dissociated from Locke's name if we are ever to understand the *real* significance of the *Second Treatise* in the modern debate about majority-rule.

The truth of the matter is that Locke did *not* "begin" with individuals in a state of nature, but with a definition of political power so authoritarian and collectivist in its bearing that no genuine individualist (e.g., Rousseau) could conceivably accept it:

Political power, then, I take to be a *right* of making laws, with *penalties of death*, and consequently all less penalties for the regulating and preserving of property, and of employing the force of the community in the execution of such laws, and in the defence of the commonwealth from foreign injury, *and all this only for the public good*.¹⁵

He *puts* men into the state of nature (in Chapter II) in order to provide himself with a *locus standi* from which to survey societies in which such power exists (Locke having been aware that he who would understand such a society must first "think" himself outside it).¹⁶ He speaks, sometimes, *as if* men in the state of nature were discrete individuals—partly, perhaps, to make his theory more intelligible to readers of Hobbes¹⁷ (who *had* thought in terms of discrete individuals), partly, perhaps, as a concession to the uncompromising nominalism of his epistemology.¹⁸ But, as will be shown below, his discrete individuals always prove, upon examination, to be the highly socialized individuals whom he had in mind when he wrote (e.g.) his parting words about the commonwealth,¹⁹ and the rights he claims for them, even in the state of nature, are rights which have their origin in social needs. And as for his having set out merely to "justify" the Revolution of 1688, here it is Locke's word against that of the historians:²⁰

¹⁴To which we shall subsequently refer as the *Second Treatise*.

¹⁵I, 3 (italics mine). Cf. iv. 22: "Nobody can give more power than he has himself, and he that cannot take away his own life cannot give another power over it." Cf. vii. 86, where he concludes that the family is *not* a commonwealth because it involves no "legislative power of life and death."

¹⁶See below, p. 75.

¹⁷See below, p. 77.

¹⁸Cf. Lamprecht, *op. cit.*, p. 53.

¹⁹xix. 243.

²⁰And, unless we read more carefully than most of Locke's critics, against his own. The exact language of the relevant passage of the Preface to the *Two Treatises* (which Professor Carpenter has unaccountably omitted from his otherwise eminently satisfactory edition) is as follows: "to establish the Throne of our great Restorer, Our present King WILLIAM; to make good his Title in the Consent of the People" (*Two Treatises of Government* [London: For Awnsham Churchill, 1690], f. A3^r, italics mine). An age which has become accustomed, as ours has, to consensual explanations of political authority, too easily overlooks the significance which the last ten words must have possessed for Locke's early readers—and for Locke himself. Cf. Lamprecht, *op. cit.*, p. 141: "He was primarily concerned with writing an apologetic for the

He that will not give just occasion to think that all government in the world is the product only of force and violence, and that men live together by no other rules but that of beasts, where the strongest carries it, . . . must of necessity find out another rise of government, another original of political power, and *another way of designing and knowing the persons that have it* than what Sir Robert Filmer hath taught us.²¹

This is only another way of stating the problem which Rousseau set for himself;²² and it removes Locke's *Second Treatise* from the category of *livres de circonstance* (where the historians have sought to place it) into that of books which set out to solve the basic questions of political theory. However unsatisfactorily, Locke did solve them, and *his solution is, at every point except one, that of the majority-rule democrats*. So long as he continues to be regarded as the philosopher of individual rights *against* the majority, much remains to be done to put straight the record regarding the modern debate about majority-rule. For he is captain of one of the two opposing teams.

form of government which came into being under William III." Cf. R. I. Aaron, *John Locke* (London: Oxford University Press, 1937), p. 272: "The immediate aim [of the *Second Treatise*] is apparent: to justify the Revolution of 1688 . . . But this aim is achieved by securing in turn a great and fundamental political principle, true for the English nation in 1688 and true, in Locke's opinion, for all well-regulated communities everywhere and at all times" (italics mine).

²¹1. 1 (italics mine).

²²Cf. Rousseau, *Contrat social*, I *prae* 1: "Je veux chercher si, dans l'ordre civil, il peut y avoir quelque règle d'administration légitime et sûre." Note, however, that Locke does and Rousseau does not beg the question whether a right to political power *can* inhere in specific persons. Cf. R. M. MacIver, *Community* (London: Macmillan and Co., 1920), p. 423: "The whole attempt to identify the principle of democracy—as any other political principle—with that of morality is fore-doomed to failure."

CHAPTER IV

THE DOCTRINE OF INALIENABLE RIGHTS

ALTHOUGH the passages reproduced in the preceding chapter are indeed from the *Second Treatise*, no close reader of that book will find it easy to understand how Locke ever got his reputation as a defender of the notion of "inalienable" individual rights. The word "inalienable," for example, does not appear to be his; and while he speaks often enough of rights (as also of freedom, liberty, liberties), we are certain to miss Locke's meaning altogether unless we understand that the "law of Nature" which confers them¹ is a law which imposes duties as well—an imposition regarding which theories of inalienable rights are notoriously silent. While, for example, a man in Locke's state of nature may indeed do what he will with himself and his own (*i.e.*, he has a "right" to do what he will with himself and his own), the exercise of that right must not involve a violation of that law of nature which he is "under," which confers the right, and which alone obligates others to respect it.² The law of nature enjoins, among other things, "equality" (= absence of subordination), thus, constructively, a "right" not to be subordinated; but the paragraph in which the injunction is discussed makes this right merely the correlate of a duty not to subordinate others;³ and we are told in the following lines that the natural law of equality is the "foundation of that obligation to mutual love amongst men on which [are built] . . . the duties they owe one another."⁴ Furthermore, Locke's treatment of these duties shows that he regards their performance as the source of the individual's right to order his actions and dispose of his possessions and person as he thinks fit, their non-performance as adequate reason for withdrawal of that right. Anticipating the objection that his state of nature is one in which men are conceived as enjoying rights without performing the corresponding duties, Locke writes:

That all men may be restrained from invading others' rights, and from doing hurt to one another, and the law of Nature be observed, . . . the execution of the law of Nature is in that state put into every man's hands, whereby every one has a right to punish the transgressors of that law to such a degree as may hinder its violation. For the law of Nature would, as all other laws that concern men in this

¹ii. 4.

²*Ibid.*

³*Ibid.* Cf. vi. 56-74, where he makes the right of parents over children a function of their duties to them, and views it as the obverse of a duty on the part of the children to obey.

⁴ii. 5 (italics mine). Locke professes to be indebted for this notion to Hooker, who, however, in the passage cited, proceeds unashamedly to make of the obligation to perform the duties in question merely a good bargain: "If I cannot but wish to receive good, even as much at every man's hands, as any man can wish unto his own soul, how should I look to have any part of my desire herein satisfied, unless myself be careful to satisfy the like desire? . . . If I do harm, I must look to suffer, there being no reason that others should show greater measure of love to me than they have by me showed unto them." Locke nowhere actually commits *himself* to this explanation.

world, be in vain if there were nobody that in the state of Nature had a power to execute that law, and thereby preserve the innocent and restrain offenders.⁵

The individual's rights cannot, therefore, be made an excuse for violating the body of law which defines them, or for shirking the *social duties* which it imposes. (Even the right to reparation for damages—so fundamental with Locke that he almost permits himself to say that it *cannot* be withdrawn in civil society⁶—appears in this context as the correlate of a duty to make reparation for damages which one has inflicted.) They cannot be because Locke is thinking in terms of an inherent right in the community to withdraw rights from individuals who do not perform the duties which attach to them. Such a view of rights and duties can, however, be pressed—and Locke certainly presses it—only at the cost of conceding that rights do not inhere in the individual *qua* individual at all, but rather in the individual as related to other individuals in a community whose *characteristicum* is a complex of reciprocal rights and duties; at the cost, again, of conceding that rights are inalienable only in the sense that duties are inalienable—thus, as any man knows who has failed at some time to perform a duty, not inalienable at all.

How far Locke actually was from entertaining the individualistic views often attributed to him in this connection may readily be gathered from his ideas on property rights—the most crucial of the “natural” individual rights which he is thought to have defended. The main points of his argument regarding the right of property in the state of nature may be summarized as follows:

Axiom: “God . . . hath given the world to men *in common*, [and] hath also given them *reason* to make use of it.”⁷

Axiom: “Men . . . have a right to their preservation, and consequently to meat and drink and such other things as Nature affords for their subsistence.”⁸ This is merely a corollary of a proposition which he has put forward at an earlier point in the discussion: “The law of Nature . . . willeth the peace and preservation of all mankind.”⁹

With these two axioms (we call them axioms because Locke offers no “proof” for them except a Biblical reference which supports only the first¹⁰), he proceeds to explain that if this were the whole of the law of nature on the subject of property the purpose of the rule enunciated in the second axiom would in fact be defeated. The earth having been given to mankind in common, no one could “ever come to have a property in anything”¹¹ without an “express compact of all the commoners”,¹² and “if such a consent as that was necessary, man had starved, notwith-

⁵ii. 7.

⁶ii. 11.

⁷v. 25 (italics mine).

⁸v. 24.

⁹ii. 7.

¹⁰*Psalms*, cxv. 16.

¹¹v. 24.

¹²*Ibid.*

standing the plenty God had given him."¹³ The difficulty may appear humorous in an age which, like ours, is unaccustomed to reasoning from first principles; but no one can read Locke's discussion of it without realizing that he took it very seriously indeed. Like the modern monetary heretic (whose position he anticipates by proposing a monetary explanation for the existence of poverty),¹⁴ he sees mankind on the verge of annihilation, and nothing save his own (*i.e.*, Locke's) discovery to prevent disaster. Like the modern monetary heretic (in Mr. Keynes' phrase), he follows "with unbowed head wherever the argument leads him."¹⁵ And his argument, proceeding as it does on two levels, is more ingenious by far than has been recognized by those who are responsible for current misapprehensions regarding his political theory.

On one level, Locke appears to take refuge in a "natural" right to property, which he deduces from a *third* axiom imported merely to provide a basis for such a deduction. "Every man," he writes, "has a 'property' in his own 'person.' This nobody has any right to but himself. The 'labour' of his body and the 'work' of his hands, we may say, are properly his."¹⁶ From this it follows that nobody has a right to that with which a man has "mixed" his labor¹⁷—since in order to appropriate the mixture it would apparently be necessary to appropriate the labor which is one of its ingredients. If, therefore, a man mixes his labor with things (*e.g.*, apples, by picking them) which have hitherto been in the "common state," he must be regarded as having "removed" them from that common state, and as having thereby excluded the common right to them of other men.¹⁸

. . . . The turfs my servant has cut [!], and the ore I have digged in any place, where I have a right to them *in common* with others, become my property without the assignation or consent of anybody. The labour that was mine, removing them out of that common state they were in, hath fixed my property in them.¹⁹

Thus, apparently, if a man were to mix his labor with the entire food supply of his community, he would have fixed his property in it; and we should have the theory of property which is often attributed to John Locke—an *individualistic* theory akin to that which, according to Huntington Cairnes, has led English lawyers like Coke and Blackstone to regard property as a "natural right" superior to all other rights.²⁰ For, if

¹³v. 27. Query: Locke the originator of the notion of "starvation in the midst of plenty"?

¹⁴v. 36: "I dare boldly affirm, that the same rule of propriety—viz., that every man should have as much as he could make use of, would hold still in the world, *without straitening anybody*, . . . had not the invention of money . . . introduced (by consent) larger possessions" (*italics mine*).

¹⁵J. M. Keynes, *Treatise on Money* (London: Macmillan and Co., 1930), II, p. 216.

¹⁶v. 26.

¹⁷*Ibid.*

¹⁸v. 27.

¹⁹*Ibid.* (*italics mine*). Why not the servant's?

²⁰Cf. Huntington Cairnes, *Law and the Social Sciences* (New York: Harcourt Brace and Co., 1935), pp. 65-79, for an illuminating discussion of the individualistic theory of property. Cf. Gierke, *op. cit.*, p. 108: "When Locke made personal liberty and property prior to all social organization, and treated these as the two inviolable rights which are entrusted by the individual to the State simply for protection, the ground-work was laid for a future theory of purely individualistic economics."

the product of a man's labor indeed be his, and if nobody ever have a right to it except himself, there can be no basis for a claim that his right to his property should on occasion be set aside for the convenience and welfare of others. And, if the theory be wrenched from context, and reproduced in a summary destined to appear in a history of political or economic theory, Locke can be construed as an ally of those who would make of security for property rights the foundation of society.

But, as is intimated above, the argument proceeds on a second level, and the theory we have just summarized is not Locke's theory at all. The right to acquire property by mixing one's labor with things held in common is not, in fact, put forward as a corollary of the right to one's person, but as a conclusion based upon *all three* of the axioms noticed above. This may be seen, in the first instance, from the fact that it applies *only* to things held in common. It may be seen, secondly, from the fact that Locke justifies it only as an *expedient*, dictated by that reason which God gave to mankind along with the earth, for preventing them from starving in the midst of plenty:

It is the taking any part of what is common, and removing it out of the state Nature leaves it in, which begins the property, *without which the common is of no use.*²¹

The right has its origin, then, in a need which Locke represents as a common (= community?) need.²² And, thirdly, the dependence of his conclusion upon the first two axioms (for all its look of a deduction from the third axiom) is revealed in the fact that where Locke has to choose between the individual's right of property in that with which he has mixed his labor and the common right of men to their preservation, he unhesitatingly sacrifices the former to the latter:

The same law of Nature that does by this means give us property, does also bound that property too. . . . As much as any one can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in. *Whatever is beyond this is more than his share, and belongs to others.*²³

Indeed, in his discussion of property in land, Locke's language appears to commit him to the view that the burden is always upon the exerciser of the right of property to prove that "others" will not suffer from the appropriation; and the following lines make it abundantly clear that he is thinking of the right of property simply as a function of one's *duty* to enrich mankind's common heritage:

As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property. . . . God, when He gave the world in common to all mankind, commanded man also to labour. . . . God and his reason commanded him to subdue the earth—*i.e.*, improve it for the benefit of life. . . . Nor was this

²¹v. 27 (italics mine). Cf. v. 29: "[The] law of reason makes the deer that Indian's who hath killed it."

²²Cf. v. 36: "I have heard it affirmed that in Spain itself a man may be permitted to plough, sow, and reap, without being disturbed, upon land he has no other title to, but only his making use of it The inhabitants think themselves beholden to him who, by his industry has increased the stock of corn, which they wanted."

²³v. 30 (italics mine).

appropriation of any parcel of land, by improving it, *any prejudice to any other man*. . . . He that leaves as much as another can make use of does as good as take nothing at all.²⁴

We conclude that Locke's treatment of the right of property in the state of nature is predicated throughout upon assumptions which are collectivist in the extreme, and that he is in fact much closer to the functional view of property urged by modern critics of individualism²⁵ than to the natural rights view usually associated with his name. It is difficult, on this showing, to see how Professor Sabine can justify his unqualified statement that Locke set up, instead of the old theory of a natural law which enjoins the common good of a society, "a body of innate, indefeasible, individual rights which limit the competence of the community and stand as bars to prevent interference with the liberty and property of private persons."²⁶ For few modern defenders of a "public" right to interfere with the rights of property in the general interest have pressed the notion more vigorously than Locke did in such a passage as the following:

He that so employed his pains about any of the spontaneous products of Nature as any way to alter them from the state Nature put them in, by placing any of his labour on them, did thereby acquire a propriety in them; *but if they perished in his possession . . . he offended against the common law of Nature*, and was liable to be punished: he invaded his neighbour's share, for he had no right farther than his use called for any of them, and they might serve to afford him conveniencies of life.²⁷

Furthermore, we may notice that this same functional view of rights carries itself over into Locke's handling of the problem of rights in organized society. The right to withdraw from the state of nature and create an organized society is itself one which he carries long enough to justify in terms of its effect upon others. "This [agreeing to join and unite into a community]," he explains, "any number of men may do, *because it injures not the freedom of the rest*; they are left, as they were, in the liberty of the state of Nature."²⁸ This is unintelligible except on the hypothesis that he would have said, if pressed, that the right could *not* be exercised if it did injure the freedom of the rest—indeed, one of the great logical weaknesses of Locke's theory is that, having said so much, he fails to develop the notion of continuing responsibility on the part of his political community towards the world outside. However that may be, in discussing the situation which obtains within an organized commonwealth, he represents rights always as created by that law which wills

²⁴v. 31-32 (italics mine). Cf. v. 34: "Hence subduing or cultivating the earth and having dominion, we see, are joined together. *The one gave title to the other*" (italics mine).

²⁵Cf. James Feibelman, *Positive Democracy* (Chapel Hill: University of North Carolina Press, 1940), p. 26: "The proper use of property would have to mean the adjustment of the property and of its owner to an established criterion of social function. Private property, then, is justified when by being private it furthers the common good."

²⁶Sabine, *op. cit.*, p. 529.

²⁷v. 37 (italics mine).

²⁸viii. 95 (italics mine).

the good of the whole²⁹—a point of view which emerges at its clearest in a neglected passage in which, speaking of the “right” to be represented in the commonwealth’s legislative body, he argues that “no part of the people, however incorporated, can pretend to [it], *but in proportion to the assistance which it affords to the public.*”³⁰

It remains to notice, in this connection, that Locke is in no sense open to the kind of criticism which Bradley and other collectivists have urged against those theorists who have represented social groups as artifacts pieced together by individuals.³¹ According to Bradley, the individuals which such theories take as their point of departure nowhere exist; they are, just to the extent that they are conceived as being at any moment free from the influence of such groups, intellectual abstractions of the most vicious kind.³² Bradley’s attack upon the concept of the unsocialized individual is surely one of the most closely-reasoned demonstrations in recent philosophical literature, and bids fair to take its place, alongside of Butler’s famous refutation of Hobbes, among those rare discussions which we may regard as—in Carritt’s phrase—instances of “definite philosophical advance.”³³ It is, therefore, significant that Locke’s position is secure at every point from Bradley’s line of attack. Not only does Locke call vigorous attention to the “dependency” of the child, through the early years of its existence, upon the assistance it receives from the social group known as the family (one of Bradley’s major emphases),³⁴ not only is he deeply conscious (as was Bradley³⁵) of the influence of the family and tradition in informing the child’s mind³⁶ and determining his notions regarding right and wrong;³⁷ he also (like Bradley) stresses the relative helplessness of reformers against the inertia of the community’s established institutions and customs.³⁸ Furthermore, Locke,

²⁹ix. 130: “Being now in a new state . . . he [man] is to part also with as much of his natural liberty . . . as the good, prosperity, and safety of the *society* shall require” (italics mine).

³⁰xiii. 158 (italics mine).

³¹Cf. Lamprecht, *op. cit.*, p. 131: “[Locke’s] contract theory of the origin of civil society is not quite as individualistic in its implications as is Hobbes’s; for he insisted that many social institutions have a natural origin in the pre-political state. Yet he certainly tended dangerously near to an atomic view of society.” Cf. Aaron, *op. cit.*, p. 287: “[Locke’s] individual is artificial. He has no family ties. He tends to be conceived as a somewhat isolated being even when he enters into social relations. So also Locke’s state is artificial. It is a community of free and independent individuals bound together . . . for the better security of their lives and estates—and it is nothing more.”

³²F. H. Bradley, *Ethical Studies* (London: Henry S. King & Co., 1876), p. 158: “The mere individual is a delusion of theory; and the attempt to realize it in practice is the starvation and mutilation of human nature, with total sterility or the production of monstrosities.” Bradley summarizes the view he is criticizing as follows (*ibid.*, p. 148): “The family, society, the state, and generally every community of men, consists of individuals, and there is nothing in them real except the individuals. Individuals have made them and make them, by placing themselves and by standing in certain relations.” Cf. G. D. H. Cole, *Social Theory* (London: Methuen & Co., 1920), p. 1: “Men do not make communities: they are born and bred into them.”

³³Carritt, *op. cit.*, p. 35.

³⁴Bradley, *op. cit.*, p. 153. Cf. Locke, vii. 80; vi. 56.

³⁵Bradley, *op. cit.*, p. 156.

³⁶vi. 58. Cf. John Locke, *Essay Concerning Human Understanding* (Oxford: University Press, 1894), i. 2. 22.

³⁷vi. 50.

³⁸Bradley, *op. cit.*, pp. 182-183. Cf. xix. 223: “People are not so easily got out of their old forms as some are apt to suggest. They are hardly to be prevailed with to amend the acknowledged faults in the frame they have been accustomed to.”

unlike Rousseau in his more mature thought, insists upon depicting even the state of nature as a community, and the law of nature as the law of a community.³⁹ Locke's individual is, we repeat, wherever you find him, a *community-member* by virtue of his participation, with other members of the community, in a common standard of justice; and any reference to Locke as an individualist must be read against the background of this phase of his thought.

The above argument must not be construed as meaning that Locke did not say things which appear to identify him with the doctrine of inherent natural rights. The position is, rather, that both the major emphases of his political theory and his concrete proposals with respect to governmental organization are inconsistent with that doctrine, and that the very sections of the *Second Treatise* in which that doctrine is enunciated embody a second doctrine which is not open to that objection. The existence of that second doctrine has seemed worth establishing even at the cost of the extremely lengthy discussion which has proved necessary for the purpose.

³⁹ix. 128: "... by which law, common to them all, he and all the rest of mankind are one community, make up one society distinct from all other creatures." Cf. Rousseau, *op. cit.*, i. 8.

CHAPTER V

THE LAW OF NATURE

AS HAS BEEN intimated above, the argument of the present treatise is predicated upon the assumption that Locke's state of nature is an expository device,¹ and that he is not to be taken seriously when he pretends that it is a historical fact.² When, therefore, he explains that it is in order "to understand political power aright, and derive it from its original," that he proposes to describe "what estate all men are naturally in,"³ we read him *as if he had said*:

Here we have certain commonwealths⁴ which in fact exercise this right of making laws with penalties of death which I have defined as political power.⁵ If we are to say what persons in such commonwealths ought to have political power, and how such things as commonwealths ever came to be created,⁶ wouldn't it be a useful first step to visualize for ourselves the situation in which members of existing political societies *would find themselves* if their present governmental arrangements were abolished and their political societies dissolved? What would their situation be? If we can answer that question, we should be able, by comparing that situation with the situations with which we are familiar, to decide whether or not it is right that political societies should exist, whether or not men should obey their commands, and whether some sets of arrangements for issuing those commands are better than others—and if so, what criterion we may employ in order to distinguish good sets of arrangements from bad ones.

The device is one that the discipline of political theory could not well do without; and, had Locke used it well, students of that discipline would owe him a considerable debt of gratitude. But instead of using it well, he proceeded simply to lose himself in an argument whose complexity can be explained only on the hypothesis that he never really made up his mind what he was trying to prove with it. In the following paragraphs an attempt is made to break down that argument into some of its constituent theses, and (where that is possible) to suggest where, logically, each of them should have led him. All of them, it will be noticed, are develop-

¹Cf. G. E. G. Catlin, *Principles of Politics* (New York: The Macmillan Co., 1930), p. 167: "It is irrelevant to enter into a full discussion of how far the theorists of social contract ever thought of the contract as having taken place at any historical epoch. A study of these writers would seem to lead to the conclusion that, although not uninfluenced by churchly discussions of what Adam did and classical discussions of the Golden Age which had once been, they were never guilty of this *naïveté*."

²As he does on occasion. Cf. viii. 101: "If we may not suppose men ever to have been in the state of Nature, because we hear not much [!] of them in such a state, we may as well suppose the armies of Salmanasser or Xerxes were never children, because we hear little of them till they were men and embodied in armies . . . Those [records] that we have of the beginning of any politics in the world . . . are all either plain instances of such a beginning as I have mentioned, or at least have manifest footsteps of it." Cf. viii. 116, where he soberly refers to "unconfined inhabitants that run loose [in the woods]."

³ii. 4.

⁴Cf. ii. 9, where he names England, France, and Holland as "commonwealths."

⁵i. 3.

⁶i. 1.

⁷Pollock, *op. cit.*, p. 241: "This state [of nature] . . . is rather a perfectly conscious abstraction than an attempt to construct the actual origin of society . . . The question is what a man's rights would be in the absence of positive institutions . . . The problem is not to account for the existence of society, but to ascertain its best or normal mode of existence" (italics mine).

ments of his major premise that, in the absence of government, men would still have duties towards one another (and, conversely, rights, since wherever there are duties there are rights to the performance of those duties), and that these duties and rights are enjoined by what he calls variously the law of God, the law of reason, and the law of nature.⁸ While (e.g.) Brierly's argument for the necessity of postulating the existence of such a law⁹ (thus for the validity of this phase of Locke's thought) appears to the present writer unanswerable, the present chapter will avoid that question and concern itself only with Locke's confusions regarding the *content* and *character* of such a law. To some extent the discussion will necessarily parallel that of preceding chapters.

Locke's theses regarding the law of nature are taken up at this point because they are indispensable for an evaluation of the insistence (central to his political theory) that, in the commonwealth (= state) as he describes it there is an absolute obligation on the part of the individual citizen to obey the law. We shall, that is to say, find Locke arguing that such a commonwealth has an *absolute right* to control the actions of its individual citizens and to dispose of their property—and, having once committed himself to a law of nature which embodies standards of right and wrong, he is clearly under an obligation to show that such an absolute right is not inconsistent with that law. If he ascribed several mutually incompatible contents to the law of nature (as the present chapter seeks to demonstrate), some of these must conflict with his later argument. But we can decide which theses do and which do not conflict with it only in the light of a previous understanding of the theses themselves.

First Thesis. The law of nature commands the "preservation" of *each man*—i.e., of *each man's* life, liberty, and estate.

It is this one of Locke's theses regarding the law of nature that has given rise to the impression (which we have discussed above) that he moved in his thinking from the axiom that men have inalienable natural rights.¹⁰ For, if one be prepared to reduce the supreme law to the proposition that the life, liberty, and estate of every person are sacred and inviolable, one must be prepared to defend the inevitable corollary that every person has an inalienable right to life, an inalienable right to liberty, and an inalienable right to property, thus inalienable rights—even if, like Locke, oneself has not chosen to use that particular form of words. Furthermore, if each person has under the supreme law a right to life, liberty, and estate, and if the supreme law be conceived as enjoining a duty upon each person to respect the rights it confers, then it is a short

⁸Cf. Lamprecht, *op. cit.*, pp. 81, 88.

⁹Cf. J. L. Brierly, *The Law of Nations* (Oxford: Clarendon Press, 1936), pp. 10-11: "Under a terminology which has ceased to be familiar to us the phrase [i.e., law of nature] stands for something which no progressive system of law either does or can discard." Cf. *ibid.*, pp. 16-17.

¹⁰Cf. Wilson, *op. cit.*, p. 120.

step to the position that each person has (along with a duty to *respect* the rights of *others*) a duty to preserve his *own* life, liberty, and estate—i.e., to Hobbes' belief that "justice therefore, . . . is a rule of reason, by which we are forbidden to do anything destructive to our life; and consequently a law of Nature."¹¹ Locke does not—be it said to his credit—go quite that far; he chooses rather to speak of a right of self-preservation than of a duty when he must put a name to that which he has in mind;¹² but since he proceeds to treat it as if it were a duty, his disagreement with Hobbes and Rousseau¹³ and other (more or less consistent) ethical hedonists appears to be largely verbal. Thus Locke's law of nature forbids suicide¹⁴ (save for those who have "forfeited" their lives by committing certain crimes which deserve death¹⁵); and from the prohibition against suicide he is able to deduce a further prohibition against a man's subjecting himself to the "uncertain, unknown, arbitrary will of another man"¹⁶—surely not because he has a "right" to live and to be free? Furthermore, as we have already found him saying, "no *rational* creature [and for Locke the law of nature and the law of reason are the same thing] can be supposed to change his condition [= do anything at all?] with an intention to be worse."¹⁷ The law of nature is, in short, a law which commands its subjects to look well to their own interests.

The proposition that the law of nature wills the preservation of each man must be sharply distinguished from the proposition (which we discuss below) that the law of nature wills the preservation of all mankind, for all that the former has the appearance of a logical deduction from the latter. Given a situation in which each man's life, liberty, and estate *can* be preserved without prejudice to the preservation of the life, liberty, and estate of any other, the two would perhaps come to the same thing; but Locke knew that by no means all situations are of that kind, and in his moments of greatest candor¹⁸ (for he would certainly have liked to pass off the two propositions as identical) he makes the law of nature command that *mankind* be preserved "as much as possible."¹⁹

For our purposes, the most interesting of the passages in which he enunciates this (first) thesis is that in which he says, "Every one . . .

¹¹Hobbes, *Leviathan*, i. 15.

¹²ii. 11. Cf. vii. 87, where he speaks not of a "right" but of a "power." Cf. ii. 6: "Every one . . . is bound to preserve himself."

¹³Cf. Rousseau, *op. cit.*, i. 2: "[La] première loi [de la nature de l'homme] est de veiller à sa propre conservation, ses premiers soins sont ceux qu'il se doit à lui-même." Cf. Carritt, *op. cit.*, p. 79 n.: "It is true that Locke was tarred with the same brush of psychological hedonism as Rousseau."

¹⁴iv. 22.

¹⁵*Ibid.*

¹⁶v. 21.

¹⁷x. 131 (italics mine).

¹⁸Waiving the extravagant possibility that Locke was unable to recognize incompatible propositions when they were set down in black and white before his eyes, it is difficult to avoid the suspicion that he is deliberately putting upon (e.g.) admirers of Hobbes when he writes (v. 24): "Natural reason . . . tells us that *men*, being once born, have a right to their preservation" (italics mine). He proceeds at once to link "men" in the reader's mind with "mankind"; and the transition from each man's right to self-preservation to mankind's right of self-preservation is accomplished. This will not do.

¹⁹iii. 16.

when his own preservation comes not in competition, ought [= has a duty?] . . . as much as he can to preserve the rest of mankind";²⁰ for here he faces the dilemma directly, and clearly chooses in favor of a law of nature which prefers the preservation of each to the preservation of "all."

Fidelity to this account of the law of nature would have committed Locke to the construction of a political society erected upon a *droit d'émigration* similar to that which figures in Rousseau's political system,²¹ and/or rich in protective devices, like the United States Supreme Court, of which the individual might take advantage in husbanding his rights. For under this law of nature, the men in the state of nature would, before entering society, be obliged to demand assurances that they would never be asked to subordinate their own rights to those of other persons; and in the absence of such assurances they could not rightly avail themselves of the apparent advantages of life in organized society.

Second Thesis. The law of nature commands the preservation of all mankind—i.e., the "good" of humanity.

It is this thesis about the law of nature which has been ignored by those writers who have regarded Locke as an extreme individualist. Since its presence in the *Second Treatise* has been amply established in our discussion of the (inconsistent) thesis that the law of nature wills the preservation of *each* man, we shall content ourselves with the citation of only one additional passage in which it is urged:

In transgressing the law of Nature, the offender declares himself to live by another rule than that of reason and common equity, which is that measure God has set to the actions of men for their mutual security, and so he becomes dangerous to mankind; the tie which is to secure them from injury and violence being slighted and broken by him, which *being a trespass against the whole species*, and the peace and safety of it, provided for by the law of Nature, every man upon this score, by the *right* he hath to preserve mankind in general, . . . may bring such evil on any one who hath transgressed that law, as may make him repent . . . and thereby deter him, and . . . others from doing the like mischief.²²

The passage is by no means free from the kind of mystification to which we have already directed the reader's attention—i.e., Locke speaks of a "right" to preserve mankind, although (since the law of nature *provides* for the "peace and safety" of the "whole species") one would have expected the (unequivocal but hateful to Hobbesians) word "duty"; but it is the most unambiguous statement that Locke brought himself to make on the subject. It abounds with interesting implications. For one thing, it commits him definitely to the notion of a good which is (as we have anticipated in our own phrasing of the present thesis) that of a group, or collectivity (the "whole species"), rather than of persons viewed as

²⁰ii. 6 (italics mine). Cf. vi. 57: "Law, in its true notion, is not so much the limitation as the direction of a free and intelligent agent to his proper interest."

²¹See below, p. 89.

²²ii. 8 (italics mine).

individuals—a *general* as opposed to a *common* good. That group, Locke is saying here, is such by virtue of a *law* which acts as a “tie” between its members, and this law is a good belonging to the members in their collective (*i.e.*, not their individual) capacity, in the sense that it may not be broken by one of the members merely because he has ceased to regard it as *his* good. And when one of the members breaks the law which wills the good of the group, it is right that he should be punished, killed even, because the good of the members of the group “in general” (thus not necessarily all) should be preserved. In the second place, the passage acquits Locke of the suspicion, which certainly attaches to the other passages which we have brought forward in this connection, of having conceived the “preservation” of mankind in eudaemonist terms. It is, in part, security from “injury and violence,” and deliverance from things which are noxious; but it involves also “reason and common equity,” *i.e.*, justice.²³

Here, then, is a law of nature which, by implication, commands (at most) as much of life, liberty, and estate for any particular man as is compatible with what we may (without violence to Locke’s thought) call the interests of humanity (present and future, since it would “deter . . . others from doing like mischief”) in general, as defined by reason and equity. It is a law of nature which emphasizes the claims upon the individual of the broader interests of his fellow men, living and unborn, and, despite Locke’s sleight-of-hand with the word “right,” one which fixes attention upon the individual’s *duty* to satisfy those claims.²⁴ It is a law of nature which involves no inalienable right for any man except the right to perform his duties and to be treated as a man (*i.e.*, as a “member” of mankind) so long (but only so long) as he does perform his duties. It is a law of nature which could enjoin an absolute duty to obey the law of a political society only where absolute obedience could be justified in terms of the individual’s duties to his fellow men.

It is, nevertheless, absolute obedience to the law of a political society that we shall find Locke demanding; and he reveals, in the strictly political portions of the *Second Treatise*, no awareness whatever of any possible conflict between humanity’s claims on the individual and the commonwealth’s claims on the individual. Thus one of the hidden premises of his position is the notion that the “public good” of one’s society is indistinguishable from the welfare of mankind. The duty enjoined by the present thesis becomes, therefore, a duty to promote the public good of one’s society, as Locke moves from his discussion of the state of nature into his discussion of the commonwealth; and nothing more is said of the former duty.

²³Cf. iii. 16: “When all cannot be preserved, the safety of the innocent is to be preferred.”

²⁴Wherefore he may be punished when he fails to satisfy them.

Third Thesis. The law of nature is a body of *immutable* rules regarding whose content no two rational men could disagree.

Locke does not, indeed, offer a list of such rules ("it would be beside my present purpose"²⁵); but he does say definitely that the law of nature consists of "particulars"²⁶ which (as we have seen) are perhaps "plainer" than "the positive laws of commonwealths,"²⁷ and that "the municipal laws of countries" are "right" only to the extent that they are "founded on" (= consistent with?) those particulars.²⁸

This is what Morris Cohen calls the "absolutistic conception of moral rules,"²⁹ and, despite its patent inconsistency with other attitudes expressed in the *Second Treatise*, its appeal to Locke's mind is revealed at many points in his argument. He believes, for example, that the "honour" which children owe to their parents is an obligation from which "no state, no freedom" can absolve them,³⁰ and that even the rule determining the age at which they are released from obedience to their parents "holds in all the laws a man is under, whether natural or civil."³¹ He makes a similar claim for the rule which entitles injured persons to reparation for damages; civil authorities "can often, where the public good demands not the execution of the law, remit the punishment of criminal offences . . . but yet cannot remit the satisfaction due to any private man for the damage he has received";³² and for still other rules which he has occasion to cite in the course of his argument. The state of mind underlying such claims is too familiar to require elaboration;³³ it is the state of mind which enabled Calvin Coolidge to dismiss the problem of the war debts with the phrase, "Well, they hired the money, didn't they?"—a state of mind which, in politics, issues in the demand for "rigid" constitutions and the insistence that there are "principles" of jurisprudence to which laws must conform if they are to be accounted laws.

Far from being inconsistent with our first and second theses, the notion that the law of nature is reducible to unchangeable rules can keep house quite comfortably with either. It has been isolated for separate treatment here because it must be sharply distinguished from the fourth thesis, despite the fact that, like the fourth, it conduces logically to the view (sometimes attributed to the hierarchy of the Roman Catholic church) that any form of government is satisfactory which results in the enforcement of "good" laws.³⁴ Both the third and fourth theses, that is

²⁵ii. 12.

²⁶*Ibid.*

²⁷See above, p. 64.

²⁸ii. 12. Cf. xi. 135: "The obligations of the law of Nature cease not in society, but only in many cases are drawn closer, and have, by human laws, known penalties annexed to them."

²⁹Cohen, *op. cit.*, p. 433.

³⁰vi. 66.

³¹vi. 50.

³²ii. 11 (italics mine). See above, p. 60.

³³Cf. Cohen, *op. cit.*, p. 430: "Moral rules are most often viewed as absolute. It does not occur to most people that there can be genuine doubt about them."

³⁴See above, p. 46.

to say, as, also, the first and second, are difficult to reconcile with the idea of any "right" of a political character except the right to enforce good laws.

Fourth Thesis. The law of nature is a law of "changing content" and thus commands different things in different objective situations.

The man who believes this can (as the man who believes our third thesis evidently cannot) make his peace with the notion that men's rights (and duties) are capable of definition only in terms of the context in which they are to be exercised (and performed). The attempt to reduce right to immutable rules is, therefore, likely to appeal to such a man as resting upon a fundamental misapprehension regarding the nature of right, which, whether it command the preservation of each man or that of the whole species, enjoins that line of conduct which in a given situation will in fact minister to the realization of the end in question. He is not committed to a denial that there are rules which, over a long period of time and in a wide variety of situations, have proved capable of such ministration—rules with regard to which there is, in all situations, a powerful presumption that they ought to be obeyed. But he cannot conceive of a moral rule which is absolute, and cannot understand how the exponent of our third thesis can have convinced himself (as, *e.g.*, Kant succeeded in doing with respect to lying) that rules should be obeyed even when obedience will militate against the purpose upon which they depend for their validity. Carried out to its ultimate implications, in one direction, it leads to our sixth thesis and thus to the politics of the philosophical anarchist—*i.e.*, to the position that the individual, who alone can have an adequate knowledge of his situation, must make his own rules from moment to moment. Carried out to its ultimate implications in another direction it leads (as we have observed above) to an insistence that positive law can claim binding character only where it commands that which *in the existing situation* is right—and, conversely, that positive law which does command that which is right ought to be obeyed no matter what is the character of the government which commands it.

It is not, as it happens, possible to point to many passages in the *Second Treatise* in which Locke enunciated this doctrine, and there appears to be no doubt that, of the two, our *third* thesis was by far the more congenial to his manner of thinking—as, also, there appears to be no doubt that our fifth thesis was more attractive to him than either the third or the fourth. Nevertheless, the fourth thesis is clearly presupposed in (*e.g.*) the reasoning by which he seeks to explain the fact that, in countries "*where there are plenty of people under government who have money and commerce,*" a man is *not* free, as we have seen him to be in

other conditions, to appropriate such common land as he can make use of. "The remainder," Locke says,

. . . . would not be as good to the rest of the commoners as the whole was whereas in the beginning of the world it was quite otherwise. *The law man was under was rather for appropriating* God, by commanding to subdue, gave authority so far to appropriate. And *the condition of human life, which requires labour and materials to work on, necessarily introduce [sic] private possessions.*³⁵

And it reveals itself once more in what he says (despite the fact that a readily intelligible "law of Nature stands as an eternal rule to all men, legislators as well as others")³⁶ regarding the need for promptly assembling the legislature of his commonwealth when "the quick turn of affairs [is] such as to need their present help":³⁷

Any delay of their convening might endanger the public; and sometimes . . . the limited time of their sitting might be too short for their work, and rob the public of that benefit which could be had only from their mature deliberation.³⁸

Fifth Thesis. The law of nature, in its application to any aggregate of persons, may be "amended" by agreement (explicit or tacit) among those persons; and the rules resulting from such agreements have the binding force of the law of nature itself. We say "aggregate" rather than "group" because fidelity to Locke's thought on this point demands a word which fixes attention upon the fact that the persons in question do not, in order to take advantage of this *carte blanche* regarding the content of the law of nature, need any organizational arrangements beyond those necessary for making such an agreement. "Keeping of faith," he writes, "belongs to men as men, and not as members of society."³⁹

The effect of such a doctrine is, clearly, to reduce the law of nature—as nearly as possible—to the rule *pacta sunt servanda*. The law of nature imposes duties and confers rights (whether for the good of each or for the good of the species). B has a duty to respect A's rights, and A has a right to the performance of that duty by B, and *vice versa*; but if A and B wish to agree to a different complex of rights and duties *as between themselves*, it is, once the agreement is concluded, the new complex which they must observe. In short, the law of nature bids me, above all else, ✓ to keep my word.

That such a doctrine can be pressed only at the cost of calling into question the validity of the first, second, third, and fourth theses, is too obvious to require comment. If I am to keep a promise which proves to involve loss of my life, liberty, or estate, what becomes of that law of nature which commands me to look well to my own preservation? If I am to perform my contract, even when performance would militate

³⁵v. 34 (italics mine).

³⁶xi. 135.

³⁷xiii. 156.

³⁸*ibid.* Cf. *ibid.*: "Constant, frequent meetings of the legislative, and long continuations of their assemblies, without necessary occasion, could not but be burdensome to the people."

³⁹ii. 14. Wherefore "the promises . . . between a Swiss and an Indian, in the woods of America, are binding to them."

against the interest of the species, what becomes of that law of nature which wills the preservation of all mankind?⁴⁰ If rules may be changed by agreement (thus also by an agreement which even a reasonable man could not have been expected to anticipate) what becomes of the doctrine that the law of nature consists of universally valid particulars plain to any "studier" of that law? And if promises are to be fulfilled, at whatever cost, what becomes of the thesis that rights and duties vary with circumstances?

We must, to be sure, restrain any impulse to be over-severe in taxing Locke with this inconsistency, for the problem involved is one of the most difficult which has arisen in the history of ethical speculation. Every moralist believes that, other things being equal, a man ought to keep his promises. But every moralist (including Locke himself) believes that a man has other duties besides that of keeping promises, and that he ought to perform these duties as well; and the interesting problems begin where there is a conflict between a man's duty to keep his promise and some other duty whose performance is clearly incumbent upon him. The thing for which we *may* properly chide Locke is his failure to notice the possibility of such a conflict; and it is (in the opinion of the present writer) hardly too much to say that the strategy of the *Second Treatise* consists precisely in a persistent refusal to recognize the fact that, at the limit, a man may not be able to obey the law of nature as described in this fifth thesis *and* the law of nature as described in the first and the second theses, and that, at the limit, a similar difficulty arises as between (*e.g.*) the first and the second, the third and the fourth, and the fifth and the sixth theses. By no means the least of the virtues of the *Contrat social* (as compared with the *Second Treatise*) lies in the fact that its author, deeply indebted as he was to Locke,⁴¹ appears to have written in full awareness of this difficulty in his thought.

The present thesis bears a family resemblance to, but must not be confused with, our sixth thesis below. This resemblance may be seen most readily when, for the form of words which we have employed at the beginning of our discussion of the fifth thesis, we substitute the equivalent proposition "a man can be bound by his own consent," and choose, from among the various ways of stating the sixth thesis, that which affirms that "nothing is binding upon a man except that to which he *consents*." That the resemblance is, however, only superficial, emerges very clearly indeed when we pause to consider the implications of the two

⁴⁰Which is not to deny that there is, up to a point, a general interest in the keeping of promises and the performance of contracts. But there appears to be no simple answer to the question, Up to what point?

⁴¹Cf. Jean-Jacques Rousseau, *Lettres de la montagne* (Paris: P. Dupont, 1823), p. 348: "Locke, Montesquieu, l'abbé de Saint-Pierre, ont traité les mêmes matières et souvent avec la même liberté tout au moins. Locke en particulier les a traitées exactement dans les mêmes principes que moi" (italics mine). Cf. T. H. Green, *Lectures on the Principles of Political Obligation* (London: Longmans, Green, and Co., 1917), p. 68: "The essential ideas of Rousseau are to be found in Locke's *Treatise of Civil Government*."

propositions with respect to the special problems of politics—understanding by “politics” the logic of that coercive state whose apparent necessity we have discussed briefly in Chapter I. For, if a man must invariably keep his promises, the thing which matters most in any specific political situation is what he (and others) can be shown to *have* consented to; and if he (and the others) can be shown to have consented to obey (*e.g.*) all rules made in a certain way, we may properly demand of him, when the time comes at which he wishes that the consent had not been given or believes that it ought not to have been given, that he nevertheless obey until he can persuade all of those with whom he has covenanted that the agreement should be rescinded. It is quite otherwise if we think from the notion that nothing binds a man except that to which he *consents*; for here the thing that matters is not that to which he consented yesterday or the day before, but that to which he gives his willing approval today. The former notion conduces, logically, to the basic doctrines of modern constitutionalism; the latter to a denial that a coercive state (in the sense intended in our first chapter) can be squared with the fundamental principle of morality.

We have already noticed, in our discussion of Locke's theory of property, his argument to the effect that the natural law prohibition against a man's having more than he can make use of, could be set aside by a tacit agreement among men to “put a value on” money—which means, if it means anything at all, that the law of nature may be changed by unanimous agreement from a law which provides for economic distribution on the basis of need into a law which provides for economic distribution on the *sauve qui peut* basis of modern capitalism.⁴² “It is plain,” he says, “that the consent of men have [*sic*]⁴³ agreed to a disproportionate and unequal possession of the earth.”⁴⁴ He disposes, similarly, of the rule which makes of each man in the state of nature (= apart from agreements to the contrary) the executor of the law of nature,⁴⁵ as, also, of the rule which declares a man free (in the state of nature) to refuse his assistance, in any particular case, to those who propose to enforce observance of the law of nature upon a recalcitrant.⁴⁶ And, while he certainly speaks sometimes as though there were matters which cannot be dealt with in this way (*e.g.*, with regard to the rights and duties of parents and children),⁴⁷ and must speak in this way unless he is willing to abandon entirely our third thesis, our point here is that there are other times at which he makes no exceptions at all: “Whatever engagements

⁴²v. 36.

⁴³We call attention to the fact that Locke may be using the word “consent” by analogy with *consensus* in post-Classical Latin, in which (*e.g.*) *consensus hominum* is often used as synonymous with *omnes*, and is therefore frequently construed with a plural verb.

⁴⁴v. 50.

⁴⁵ii. 7. Cf. vii. 80.

⁴⁶ii. 10. Cf. vii. 88.

⁴⁷vi. 52-76.

or promises any one made for himself, he is under the obligation of them."⁴⁸ According to the fifth thesis in its purest form, therefore, men have an unlimited competence to modify the law of nature by agreement, and an unlimited obligation to obey the law in its amended form until it is changed again by unanimous agreement.

It seems probable, however, that for a clear understanding of what Locke intended his doctrine of consent to mean we must read it against the background of (1) his insistence that a man's consent can, although it may be given tacitly, be given by himself alone—*i.e.*, not by someone else for him,⁴⁹ (2) that the consent, whether express or tacit, must be given freely and not under duress,⁵⁰ and (3) that there is *one* sort of agreement to which a man may not consent at all. Because it involved him in a difficulty from which he never succeeded in escaping (and one of which we shall say much in what follows), it is the third of these qualifications of the doctrine which is, for our purposes, the most important; and before proceeding to our sixth thesis it will be well for us to examine it carefully.

The kind of agreement which Locke wishes to prohibit is, briefly, one which results in the *complete* subjection of one man's will to the will of another man, or of other men. Like Krabbe in our own time, and like (in the opinion of the present writer) all of the majority-rule democrats, Locke moves in his thought from a horror of *personal* authority; and one of the surest bits of evidence to which we may point, in substantiation of the suggestion that students of politics have got out of the habit of reading Locke, is the fact that the central notion of the following eloquent lines suggests to our minds not the name of the author of the *Second Treatise* but rather that of Lord Acton: "He that thinks absolute power purifies men's blood, and corrects the baseness of human nature, need but read the history of this, or any other age, to be convinced to the contrary."⁵¹ To give one man absolute power over another (or over others) is, he thinks, to invite the former to violate that provision of the law of nature which forbids men to treat one another "as if we were made for one another's uses";⁵² and to suppose that men ever willingly agree to the exercise of such power over themselves is "to think [them] . . . so foolish that they take care to avoid what mischiefs may be done them by polecats or foxes, but are content, nay, think it safety, to be devoured

⁴⁸viii. 116.

⁴⁹viii. 119: "Every man [is] . . . naturally free, and nothing [is] . . . able to put him into subjection to any earthly power, but only his own consent." Thus, a man "cannot by any compact whatsoever bind his children or posterity" (viii. 116).

⁵⁰xvi. 186: "It remains only to be considered whether promises, extorted by force, without right, can be thought consent, and how far they bind. To which I shall say, they bind not at all: because whatsoever another gets from me by force, I still retain the right of, and he is obliged presently to restore."

⁵¹vii. 92. Cf. Dalberg-Acton, *op. cit.*, pp. 48-49. Cf. xvi. 180: "The practice of the strong and powerful, how universal soever it may be, is seldom the rule of right."

⁵²ii. 6.

by lions."⁵³ "I have reason," he insists elsewhere, "to conclude that he who would get me into his power . . . would use me as he pleased when he had got me there, and destroy me too when he had a fancy to it; for nobody can desire to have me in his absolute power unless it be to . . . *make me a slave*."⁵⁴ To agree to become a slave (in this sense) is, for Locke, tantamount to agreeing to one's own death; and he insists (a) that no man in his senses can be supposed to do either willingly, and (b) that even if a man were willing to do one of them, the agreement would be invalid because in violation of the law of nature: "A man, not having the power of his own life, cannot by compact or his own consent enslave himself to any one, nor [*sic*] put himself under the absolute, arbitrary power of another . . . Nobody can give more power than he has himself."⁵⁵

What this fifth thesis (taken with its qualifications) amounts to, then, is this: I must keep my promises—but a promise is not a promise if made under duress, if made for me by someone else, or if it subjects my will to the absolute, arbitrary authority of a will not my own. Evidently a theorist who, like Holland, is unable to conceive of political authority as other than personal, would have to interpret such a thesis as meaning that a man can subject himself to no coercive authority at all—since, on his showing, such authority always turns out (when the time comes for it to be exercised) to be that of the persons responsible (in the particular instance) for its being set in motion. But it is of the first importance that exegesis of the *Second Treatise* should proceed from a clear understanding that Locke did *not* interpret it in this manner, and that he *was* able to conceive of an authority to whose compulsion men might freely subject themselves without becoming slaves in the sense intended in the excerpt reproduced above—*i.e.*, the impersonal authority of the Law. Indeed, not the least of the injustices of which Krabbe is guilty, in his over-hasty summary of previous speculation on the problem with which he deals in *Die moderne Staats-idee*, lies in his failure to recognize in Locke the elements of his own theory of the sovereignty of law. In his discussion of Rousseau he writes:

Mit dieser Vorstellung von einer als Person organisierten und wirkenden Gemeinschaft, welche Macht über ihre Glieder besitzt, ist ein neuer und fruchtbarer Gedanke in der Staatslehre in den Vordergrund getreten, weil damit zum ersten Male die Autorität einer unpersönlichen Gewalt gesetzt wird. Bis auf Rousseau kann mann sich keine andere als eine persönliche Gewalt denken, und wird in der Staatsmacht ein bestimmten Personen zustehender Befehlsrecht gesehen.⁵⁶

And in his discussion of Locke's theory:

Der Zusammenhang zwischen Staat und Gemeinschaft liegt also nur hierin, dass der erstere eine notwendige Ergänzung der zweiten ist, nicht aber dass die Obrig-

⁵³vii. 93.

⁵⁴iii. 17 (*italics mine*).

⁵⁵iv. 22.

⁵⁶Krabbe, *op. cit.*, pp. 30-31.

keitsgewalt ein Bestandteil der aus der Gemeinschaft hervorgekommenen Rechtsordnung ist und also die nämliche Grundlage hat wie das in der Gemeinschaft herrschende Recht.⁵⁷

Many years before Rousseau posited *zum ersten Male* the authority of impersonal power, Locke had written of the "sovereign" (= king) in his system:

[He] is to be considered as the image, phantom, or representative of the commonwealth, acted by the will of the society declared in its laws, and thus he has no will, no power, but that of the law. . . . When he quits this representation, this public will, and acts by his own private will, he . . . is but a single private person without power and without will; *the members owing no obedience but to the public will of the society.*⁵⁸

If Krabbe had meant merely that Locke, having proclaimed the sovereignty of law, proceeded to argue for the legitimacy of a state whose citizens may at any moment find themselves subject to the absolute, arbitrary will of other persons, he might be credited with the discovery of the major difficulty in Locke's position. Locke's capital error, that is to say, is that of denying in one portion of his argument the ethical defensibility of the kind of society for which he pleads in another—of saying here that obedience is owed *only* to the Law (= that which the law ought to be), and there that one should obey a state whose law is, at the limit, merely the command of certain persons. Krabbe could, however, hardly have isolated this error in Locke's position without recognizing it in his own—without, further, perceiving (as Rousseau did) that the attempt to set up an authority which is both impersonal *and* authoritative is a circle-squaring expedition, for failure in which no man is to be censured.⁵⁹

Sixth Thesis. The law of nature commands that, at the limit, each man shall act in accordance with the dictates of his own reason.

This is by much the most elusive of Locke's six theses regarding the content of the law of nature—as, because of the rôle it was destined to play in Rousseau's political system, it is the most interesting. Stated in its very simplest terms, it becomes an insistence that after all has been said that can be said about right and wrong (= about the content of the law of nature), after we have decided whether the end is the good of the species or the good of each man, after we have decided whether right can or cannot be reduced to rules, after we have decided to what extent promises create a special sphere of right in which all rules are suspended

⁵⁷*Ibid.*, p. 26.

⁵⁸xiii. 151 (italics mine). Cf. xviii. 206: "The king's authority being given him only by the law, he cannot empower any one to act against the law, or justify him by his commission in so doing Against the laws there can be no authority." Cf. the following formula from Laband (*op. cit.*, p. 1), of which Krabbe makes much: "Der Staat von seinen Angehörigen keine Leistung und keine Unterlassung fordern, ihnen nichts befehlen und nichts verbieten kann, als auf Grund eines Rechtssatzes." The latter might well be a plagiarism from Locke.

⁵⁹Rousseau, *Gouvernement de Pologne*, p. 252: "Mettre la loi au-dessus de l'homme est un problème en politique que je compare à celui de la quadrature du cercle en géométrie. Résolvez bien ce problème; et le gouvernement fondé sur cette solution sera bon et sans abus. Mais jusque-là soyez sûrs qu'ou vous croirez faire régner les lois, ce seront les hommes qui régneront."

except *pacta sunt servanda*, there remains the problem, analogous to that of administration (as compared to legislation) in politics—namely, that of who is to make the decisions regarding the application of agreed standards to specific situations. Even if, for example, we were to place beyond challenge the rule *pacta sunt servanda*, opinions might well differ in a given case as to whether a promise has been given, as to the nature of the promise, as to whether non-performance by one party to an agreement excuses the second party from his obligation, as to whether such non-performance has been demonstrated, *etc.*⁶⁰ Some ethical philosophers, confronted with this problem, have taken the position that in the last analysis the individual's duty is to do his duty as *he* sees it—while others have emphasized the fallibility of the individual's reason and the resultant need for Authority capable of relieving the individual of all responsibility for such decisions. Carritt, for example, writes:

I think we must say that there are right acts for a rational being to perform [*i.e.*, that there is what Locke calls a law of reason], whether he knows what they all are or not, *but that we cannot blame him for not doing them if he cannot know them.*⁶¹

Locke, in detailing the terms of the compact which underlies his political society, says (approvingly):

All private judgment of every particular member being excluded, the community comes to be umpire, and by understanding indifferent rules and men authorised by the community for their execution, decides all the differences that may happen between any members of that society concerning any matter of right. . . . ; whereby it is easy to discern who are, and are not, in political society together.⁶²

But Locke did not always use this language; and as a result there is a line of argument in the *Second Treatise*, closely related to that distrust of personal authority of which we have taken notice above, which amply justifies the inclusion here of this sixth thesis.

It is, he believes, good that men should establish an authority to decide differences between them regarding matters of right, and it is good that, having established such an authority, they should abide by its decrees. It must, however, be an authority under which they can count upon an "established, settled, known law,"⁶³ a "known and indifferent judge,"⁶⁴ and due execution of the latter's sentences⁶⁵—an authority, in short, which meets at every point the familiar requirements of Dicey's "rule of law."⁶⁶ But, in any case, they retain

⁶⁰With regard to the argument in the text that it was this (sixth) one of Locke's theses which most deeply influenced Rousseau, cf. Rousseau, *op. cit.* Charles William Hendel, *Jean-Jacques Rousseau: Moralist* (London: Oxford University Press, 1934), II, p. 176: "Since I feel myself bound to everything that I have either expressed or intended to express in my dealings, I am not bound to anything whatsoever beyond that" (italics mine). *I.e.*, Rousseau is to decide regarding the extent of his obligation.

⁶¹E. A. Carritt, *The Theory of Morals* (Oxford: Oxford University Press, 1928), p. 140 (italics mine).

⁶²VII. 87.

⁶³IX. 124.

⁶⁴IX. 125.

⁶⁵IX. 126.

⁶⁶A. V. Dicey, *The Law of the Constitution* (London: Macmillan and Co., 1927), pp. 179-201.

that ultimate determination . . . which belongs to all mankind, where there lies no appeal on earth, *by a law antecedent and paramount to all positive laws of men*, whether they have just cause to make their appeal to Heaven. And this judgment they cannot part with.⁶⁷

To "make appeal to Heaven" is, be it noted, a euphemism which Locke employs where a modern writer would say "to fight it out"; and Locke's point is—at his most reckless—that

where the body of the people, *or any single man*, are deprived of their right, or are under the exercise of a power without right, having no appeal on earth they have a liberty to appeal to Heaven whenever *they* judge the cause of sufficient moment.⁶⁸

The man who makes the appeal must, to be sure, remember that he will answer for it before a tribunal which is not dependent for its knowledge upon the evidence it hears, and one which will deal harshly with him if he has for frivolous reasons inconvenienced his fellow citizens;⁶⁹ he must, therefore, be sure not only that he is right but also that the issue at stake is "worth the trouble and cost of the appeal."⁷⁰ But if he *is* sure, he is entitled to make the appeal.

The contemporary student of politics should, in all this, feel himself on familiar ground, for it is this train of thought which constitutes the common element in the (otherwise not very homogeneous) works of Harold J. Laski; but its presence in the *Second Treatise* creates for its author yet another logical difficulty from which there is no escape. If, at the limit, it is really right for the individual to judge for himself whether or not he will permit force to be used on him, then, as Rousseau argued, the only legitimate political society is that which maintains an *effective* right of emigration and thus makes all of its decisions unanimously.⁷¹ The implications of the sixth thesis are, that is to say, unavoidably anarchistic, and cannot be squared with those aspects of Locke's political thought which we are about to examine.

⁶⁷xiv. 168 (italics mine). Cf. xiii. 155: "In all states and conditions the true remedy of force without authority is to oppose force to it." Cf. xix. 242: "Force between either persons who have no known superior on earth, or which permits no appeal to a judge on earth, [is] . . . properly a state of war, wherein the appeal lies only to Heaven; and in that state the injured party must judge for himself when he will think fit to make use of that appeal and put himself upon it." Cf.: iii. 20; xix. 241; xix. 232, where he says that where one man uses force upon another without right "all former ties are cancelled, all other rights cease, and every one has a right to defend himself, and to resist the aggressor."

⁶⁸xiv. 168 (italics mine).

⁶⁹xvi. 176. Note that the right is thus made to defend itself in terms of the general interest.

⁷⁰*Ibid.*

⁷¹Everything Rousseau had to say about majority-rule should be read with this in mind. By remaining within the society, the minority definitely associates itself with the majority's decision, which thus becomes unanimous. Cf. Rousseau, *Contrat social*, iv. 2: "Quand l'État est institué, le consentement est dans la résidence; habiter le territoire, c'est se soumettre à la souveraineté . . . Ceci doit toujours s'entendre d'un État libre; car d'ailleurs la famille, les biens, le défaut d'asile, la nécessité, la violence, peuvent retenir un habitant dans le pays malgré lui, et alors son séjour seul ne suppose plus son consentement." Cf. Catlin, *Principles*, p. 388, n. 2: "Rousseau's entire argument for the claims of the State . . . rests on the validity of this footnote . . . [The] assumption . . . is obviously fantastic . . . Present-day States are not *états libres* in Rousseau's sense." Indeed they are not; and Catlin, having made the point himself, should not identify Rousseau with the majority-rule democrats, who certainly are not thinking in terms of a *droit d'émigration*. Cf. *Id.*, *Story of the Political Philosophers*, pp. 453-54, where his criticism of Rousseau reveals no awareness of this limitation upon the right of the majority in Rousseau's system. Here, as elsewhere, it is Locke who expresses the real views of the majority-rule democrats (viii. 121): "He that has once, by actual agreement . . . given his consent to be of any commonweal, is perpetually and indispensably obliged to be, and remain unalterably a subject to it." Locke concedes a right of emigration to residents who have given *tacit* consent, but does not make the individual's obligation depend (as Rousseau does) on his being in a position to exercise it.

CHAPTER VI

POPULAR SOVEREIGNTY

SINCE Locke certainly claimed (in reply to his question regarding the "way of designing and knowing the persons that have" political power) for the majority of the members of his political society all the power which the society itself could rightfully exercise,¹ the validity of our thesis that he was an extreme majority-rule democrat is most likely to be questioned by those who regard his theory as one in which there is no room for the concept of sovereignty as we today understand it. Locke's majority, they may object, was to have its way only within certain carefully defined limits (*i.e.*, within the limits set by the natural rights which he attributes to the members of his society). If the majority (or the people) were to ignore these limits, it would find itself exercising powers which Locke denies to the society itself. Locke, in a word, could not possibly have countenanced the notion of an unlimited sovereignty, either in the whole people or in a majority of the people.

We have, as the reader will recall, taken the liberty of treating Locke's state of nature as an expository device, the purpose of which is to show what men's rights and duties would be in the absence of formal political organization. Proceeding on this assumption, we have attempted to analyze Locke's account of those rights and duties into irreducible first principles of ethics—always, however, emphasizing the fact that they are intended to apply to a situation in which, by definition, there is no political organization, and, wherever possible, calling attention to their mutual incompatibility.

We shall, in the same way, treat Locke's "compact" as an expository device, whose purpose is to lay bare the essential character of the rights and duties which belong to men as members of (legitimate) commonwealths.² That is, we shall proceed *as if Locke had said to the reader*:

A commonwealth, in my view, is simply a group of people occupying a given territory and, normally, obeying a common government. All of us are familiar with such groups of persons, and all of us are accustomed to distinguish in our minds between those situations in which the members of a commonwealth are under an obligation to obey their present government and those situations in which we are unable to perceive any such obligation. Or, if you like, physical power to promulgate and enforce laws sometimes, in this commonwealth or that

¹See below, p. 112.

²Cf. J. Allen Smith, *The Growth and Decadence of Constitutional Government* (New York: Henry Holt & Co., 1930) pp. 167-168: "[Locke] did not contend that the social contract was the origin of all governments, but merely of all legitimate governments A fair interpretation of his political philosophy justifies the assumption that any part which the social contract may have had in the remote past in the creation of political institutions was, in his opinion, of minor importance in comparison with the significance of the social contract doctrine as a theory of political organization."

one, gets into the hands of persons who have no right to exercise it, and use it to enforce rules which ought not to be obeyed. Unfortunately, however, our ideas on this question are extremely indefinite, thus greatly in need of clarification; and the need is all the greater because two recent writers, Filmer and Hobbes, have said things about it which, at least in my own opinion, are iniquitous. I believe myself to have discovered certain principles which will serve, for those of us who disagree with Filmer and Hobbes, as reliable criteria by which to distinguish governments which ought to be obeyed from those which ought not.

Briefly, the way in which I have arrived at these principles is as follows. I start out by assuming that organization for purposes of government is a necessity for human beings—a notion which we may express either by saying (as I sometimes do in a metaphorical sense) that men were not willing when they were in the state of nature (= in an unorganized condition) to remain in it, or by saying (what comes to the same thing) that they would not willingly return to the state of nature even if they were free to do so.

At the same time, I assume that they are not so eager for the benefits of life in an organized political society as to be willing to pay an unlimited price for them. They desire certain conveniences which can be had only through organization, *i.e.*, certain rights, and are willing to accept certain burdens (which we shall call duties) in order to assure themselves those conveniences; but if the onerousness of the burdens were obviously disproportionate to the desirability of the conveniences, they would not be willing to accept the former—nor would it be fair, in that event, to expect them to do so.

I assume, thirdly, that it is possible to infer, from what we know about people, what *inconveniences* would weigh most heavily upon them in the absence of political organization; and that it is proper for us to posit the removal of those inconveniences as the *minimum* which they ought (if the exchange is to be a fair one) to receive from their political society in return for the acceptance of any burdens whatever. Those inconveniences are, pretty obviously, the absence of any commonly accepted law defining men's rights and duties, the lack of an impartial judge to decide disputes regarding matters of right, and, finally, the helplessness of the weak man with right on his side against the unjust man who happens to be strong.³ We may, therefore, point to the following facilities which a political society must be able to offer to its members in return for the duties which it imposes upon them: promulgated, standing laws defining the rights and duties of all the members; arrangements for impartial decisions on matters of right; and unflinching protection of the members in the enjoyment of their rights.⁴ A society which fails to provide these facilities is not really a political society at all, but a continuation of the state of nature. In other words, we shall regard men as organized only when they are organized in such a way as to be free of the inconveniences of the state of nature.

In the fourth place, having gone so far already as to speak in terms of a fair exchange between the society and its members, I assume that the most convenient method we can employ in describing the duties which the members must accept in order for the society to be able to provide the facilities set forth above is that of pretending that a contract has been negotiated between the members of the society, setting forth the burdens they are willing to shoulder in return for such facilities. In other words, I shall speak as if such a society could come into existence only by virtue of a promise given by each of its members to accept certain duties and faithfully discharge them—which is only another way of saying that such a society can continue to exist only if it can count on its members to act *as if* they were under contract for the performance of certain duties.

I propose in this book, then, to expound my views as to the nature of the promise which individuals must be understood to have given if their society is really to deliver them from the inconveniences of life outside society—*i.e.*, the

³ix. 124-126.

⁴ix. 131.

understandings which must exist between the individuals in a society in order for the latter to be capable of achieving the purposes for which it exists.

The chief of these understandings which Locke demands of the citizens of his commonwealth are (1) an understanding with regard to the *purpose* for which the society's power is to be used; (2) an understanding as to the kind of obedience which each member of the society may expect the other members to tender to the society's law; and (3) an understanding as to the way in which the society's laws are to be made.

The most immediately interesting of these understandings, for our present purposes, is the first. If the reader will turn back to Locke's definition of political power⁵ he will observe that it contains the words "and all this only for the public good." It is, as it stands, an apparent limitation upon the power of the society (*i.e.*, the power of the society cannot be employed *except* for the promotion of the public good)—and, at the same time, a grant of power to the society (*i.e.*, to take action for the public good). Whether or not it *is*, in the treatment it receives at Locke's hands, a limitation upon the society's power, is a question to which we shall return at a later point, our present concern being to direct attention to Locke's failure to give an adequate account of what he understood the phrase to mean. There is no *a priori* objection to the notion (already mentioned briefly in our discussion of Locke's law of nature) that men may become so related to one another in a collectivity as to justify us in speaking in terms of a good which is that of the collectivity rather than that of its members regarded as individuals. Nor is there any objection *a priori* to the notion that men may become so related to one another in a collectivity as to be willing to sacrifice their narrow interests as individuals to the broader interests of the collectivity. Much of the history of humankind would be incomprehensible but for the possibility of appealing to such an hypothesis, and the prospects for the future moral development of mankind would seem dismal indeed but for the possibility of indulging the hope that it is true. Nevertheless, to concede the utility of the concept is not to concede that it should be loosely used, and we cannot face too early, in our study of Locke, the fact that he was completely unaware of its presuppositions.⁶ He should have seen (but did not) that if there is to be a good "public" to a group of individuals, they must have, over a considerable area, interests which are really common, and that, conversely, where such common interests do not exist, there is no point in speaking of a public good. Rousseau was well aware of these presuppositions, and uses the concept of the "*bien public*"

⁵See above, p. 66.

⁶Cf. Lamprecht, *op. cit.*, p. 135 n.: "Locke did not distinguish between the common good and the good of each separate person, but assumed always that the former included the latter. . . . Locke does not give any indication of having realized that there is any problem in this identification of private and public interests."

with notable precision.⁷ Locke lacks Rousseau's insight into the fact that, were the men in a commonwealth without recognized common interests, the maintenance of authority would be impossible, while if their interests did not conflict authority would be unnecessary, that, therefore, a sort of equilibrium between centrifugal and centripetal tendencies is a logical presupposition of political society.⁸ When, therefore, what he wants to show is that government is necessary, he speaks as if men's interests were so divergent as to deprive the notion of a good common to them of all meaning; and when what he wants to show is that obedience pays good returns, he simply takes for granted the existence of enough common interests to constitute a public good—and without realizing that this makes his conclusions inapplicable to situations where that assumption is not fulfilled. If, that is to say, Locke had been really aware of the area of common interests whose existence is assumed in his concept of a public good, he would have contented himself with arguing (as Rousseau does) that *in a certain kind of society* promoting one's own interest is the same thing as promoting the public good,⁹ and thus would have made room in his political system both for the duty to look well to one's own interests and that duty to promote the *public* interest which he demands of the members of his society. Or, to put the same point in another way, he would have seen that men must be related to one another in a certain way before we can conceive of their being willing to make this (first) of the three promises of which Locke is thinking¹⁰—and that, having posited the existence of such relations we must not, subsequently, exaggerate the extent to which their interests conflict.

With regard to the second and third of these understandings, the critic's most important task is to distinguish sharply between them; for, although they appear at first blush to come to much the same thing, they do not in fact do so. On the one hand Locke is saying (on our interpretation of the compact) that the idea of a society free from the inconvenience of the state of nature involves as a matter of course the recognition by the members of the society that the latter can act for the public good only by imposing certain uniformities of conduct upon its members, and that the members must stand ready to accept these impositions when they are in the public interest. There is, Locke is saying, an absolute and irrevocable obligation upon the members of a political

⁷Cf. Rousseau, *Contrat social*, i. 5: "Que des hommes épars soient successivement asservis à un seul . . . je n'y vois point un peuple . . . ; c'est, si l'on veut, une agrégation, mais non pas une association; il n'y a là ni bien public, ni corps politique" (italics mine). This is, clearly, to say that there are situations in which there is no good which is public.

⁸Cf. *ibid.*, ii. 1: "Si l'opposition des intérêts particuliers a rendu nécessaire l'établissement des sociétés, c'est l'accord de ces mêmes intérêts qui l'a rendu possible. C'est ce qu'il y a de commun dans ces différents intérêts qui forme le lien social; et s'il n'y avait pas quelque point dans lequel tous les intérêts s'accordent, nulle société ne saurait exister."

⁹*Ibid.*, ii. 4.

¹⁰Cf. viii. 107: "Those who liked one another so well as to join into society cannot but be supposed to have some acquaintance and friendship together, and some trust in one another" (italics mine).

society to discharge any duties which arise out of the community's needs, and to content themselves with such rights as attach to the performance of those duties. Implicit in this insistence is the notion that where men live together in a genuine community (*i.e.*, one with a good which is genuinely public) there arises a complex of rights which ought to be respected and duties which ought to be performed, and that the law of the community ought to be a law which enjoins those duties and respects those rights—which is, be it noted, some such restatement of the second thesis above as we have already warned the reader to expect. On the other hand, Locke is saying that a society free of the inconveniences of the state of nature is possible only where men can count upon each other to obey all positive legal enactments made in a certain way; and our point, for the moment, is that the promise necessary for an understanding of this kind is a promise of an essentially different character from the promise to promote the public good and the promise to obey that law which is in fact necessary for the promotion of that good. For, the moment we begin to speak of legal enactments made in a certain way, we move from the world of concepts into the world of actualities, where methods for enacting positive rules must, if they are to be applied, be applied by human beings who are not only fallible intellectually, thus capable of conceiving incorrectly the uniformities of conduct demanded by the public interest, but also capable, upon occasion, of employing for their own selfish purposes whatever power is entrusted to them to determine the content of legal enactments.

It is only against the background of the essential difference between the *first two* of these three understandings and the third (to which we shall devote most of the remainder of this chapter) that we can appreciate the significance of the question Locke raises, at the very beginning of his book, as to who the *persons* are who have the right of making laws, *i.e.*, who the persons are who have the right to political power. For such a question, on the lips of a man who believes that the *real* duty of each man in a political society is to promote the public good and to obey laws calculated to promote the public good is, quite simply, a *question mal posée*. The remainder of the present chapter is, in the main, an elaboration of this criticism of Locke. We do not propose to find fault with his assumption that the relations between the members of a political society free from the disadvantages of the state of nature can properly be described in contractual terms, or to raise inconvenient questions as to whether or not such a contract was ever negotiated by the members of any political society. We do not propose, either, to question his assumption that political society is necessary, in the sense explained above, or his assumption that by imposing upon its members duties disproportionate

to benefits conferred, a society might well cease to be (or fail to become) a society free of the inconveniences of an unorganized existence, or his assumption that the *minima* of a society free of those inconveniences are a uniform law (thus one which imposes equal duties on its members), an impartial judge, and adequate machinery for the enforcement of its decrees. Nor shall we press further our objections, already recorded, to Locke's loose thinking about the public good, or his cavalier assumption that in promoting the good of one's own political platoon one also promotes the good of humankind. Rather we shall fix attention upon the relation between the *third* understanding, the notion that the members of a political society have promised one another absolute obedience to all positive enactments made in a certain way, and criticize it exclusively on Locke's own principles. It will be shown (1) that, although he did not use these words, Locke does read into this third understanding, not only the concept of unlimited sovereignty, but also the concept of an unlimited sovereignty which is *personal*; (2) that the promise necessary for such an understanding is prohibited by Locke's own theory of consent, thus would not (on his showing) be binding upon the members of his political society; and (3) that a society built upon such an understanding would not be free from the inconveniences which he attributes to the state of nature.

Most of the current misunderstandings about Locke's views on sovereignty can be attributed to (a) failure to distinguish between the powers of Locke's government (at any given moment) and the powers which (on his principles) the society can entrust to the government whenever it sees fit to do so, (b) failure to pay adequate attention to Locke's concrete proposals regarding political organization, (c) failure to face the implications of what Locke has to say about the right of revolution, and (d) failure to appreciate the character of the obligation which Locke assigns to the individual *vis-à-vis* his society and its law. We propose to take up these points *seriatim*.

(a) "The most significant thing about Locke's *Treatise of Civil Government*," writes Professor Lamprecht, "is really not what it says but what it avoids saying. Locke's most notable trait is that he could compose an entire treatise on government without so much as mentioning the word or introducing the idea of sovereignty."¹¹ And Professor Laski, whose opinion regarding a question of this kind cannot lightly be set aside, can be cited to the same effect. "It is," he says, "not accident which makes

¹¹Lamprecht, "Hobbes and Hobbism," p. 49. Cf. *Id.*, *Moral and Political Philosophy of John Locke*, p. 148: "He did, to be sure, reject any government which does not rest on the consent of the governed; but he nowhere expounded a doctrine of popular sovereignty." Cf. Smith, *op. cit.*, p. 14: "The conception of the state which prevailed in the [American] Revolutionary period was very largely that which we find in the political writings of John Locke. His defense of the social compact was not a defense of unlimited power. . . . Sovereignty in the sense of unlimited power could have no place in the philosophy of the free state."

him [Locke] construct a non-sovereign state."¹² "His state is nothing so much as a contract between a group of business men who form a limited liability company whose memorandum of association forbids to the directors all those practices of which the Stuarts had, until his time, been guilty."¹³ Furthermore, we have Locke's own word that "their [the legislative's] power in the utmost bounds of it is limited to the public good of the society. It is a power that hath no other end but preservation, and therefore can never have a right to destroy, enslave, or designedly to impoverish the subjects."¹⁴ Now *one* clear meaning of these passages is that Locke intended the government of *the day* in his political society to be a government of limited power, thus of limited sovereignty, thus non-sovereign; and if this were all that Professors Lamprecht and Laski intended to say, the statements we have quoted from them above would be quite unexceptionable from the point of view of the present study. The relation between the government of the day in Locke's system and the society from which it derives its powers is, quite simply, assimilable to that between principal and agent in Anglo-American law; and for the government to claim *vis-à-vis* the society for which it acts powers which the society has not entrusted to it *would*, on Locke's showing, be as preposterous as for an agent to claim, *vis-à-vis* his principal, a freedom to do in the latter's name things which the latter does not wish done.¹⁵

Locke might, to be sure, have spoken more clearly about the precise character of the limits upon the power of the legislative (= the government)¹⁶ and of the act by which it becomes the society's agent. There are passages from which, for example, we might get the impression that the legislative possesses a general power to take whatever action is necessary for the public good—a power similar to that which has, on occasion, been claimed for the government of the United States under the preamble and the general welfare clause of the constitution. The legislative may, he holds in such passages, "direct how the force of the commonwealth shall be employed for preserving the community and the members of it"¹⁷—a grant of power with which the most ambitious legislature might well be satisfied, and one which recalls the notion of "universal" agency in Anglo-American law. There are other passages which convey the impression (especially to an American reader, trained to think in such terms) that the legislative receives certain specific powers which—while it may not exceed them—it may subsequently exercise as a matter of right until

¹²Harold J. Laski, *The Rise of Liberalism* (New York: Harper & Brothers, 1936), p. 127.

¹³*Ibid.*

¹⁴*xi.* 135.

¹⁵Cf. Aaron, *op. cit.*, p. 273.

¹⁶Cf. *xiii.* 149: "In a constituted commonwealth . . . acting for the preservation of the community, there can be but one supreme power, which is the legislative, to which all the rest are and must be subordinate."

¹⁷*xii.* 143.

it can be shown to have betrayed its trust. There are, again, passages in which critics have been able to see elements of a second, "governmental" *contract*, by which the society is itself bound not to disturb the legislature so long as it respects (the letter of? the spirit of?) the instrument of delegation.¹⁸ "This legislative," he writes, "is not only the supreme power of the commonwealth, but sacred and unalterable in the hands where the community have once placed it."¹⁹ And, again, the "legislative or supreme authority . . . is *bound* to dispense justice and decide the rights of the subject by promulgated standing laws, and known authorised judges."²⁰ We return below to both these questions, but we may anticipate by saying that the notion of a right in the legislative to continue to govern so long as it can point to the language of such a contract as justification for its actions will hardly survive a careful reading of the *Second Treatise*,²¹ and that Blackstone was undoubtedly correct (however misguided from the democratic point of view) when he denounced Locke for not having given to his government adequate protection against popular whims.²²

It seems highly probable, however, that in these quotations Lamprecht and Laski meant to do more than deny the sovereignty of the government of the day in Locke's system, and that their intention was to identify Locke with that tendency in political theory which—carried out to its logical implications—eventuates in a demand for institutional limitations upon *all* governments, even governments acting under express popular mandate. If so, it can easily be shown that they have misunderstood the bearing of what Locke said about these matters, and have mistaken Locke's wish to limit the power of the agent (in the relation he is discussing) to act against the will of the principal for a wish to limit the power of the principal to give instructions to his agent. *I.e.*, the interesting question (which Lamprecht and Laski have answered incorrectly if they meant to answer it at all) is not whether the government in Locke's system has the power to do to the society that which the latter *disapproves*, but whether the society can assign to it the power to do that which the society *approves*—however much it may conflict with previously received notions regarding the limits upon government. Had they asked

¹⁸But cf. Gierke, *op. cit.*, pp. 104-105: "The doctrine of the social contract developed in England, especially in the sense of popular sovereignty. The English theory gave the contract of rulership only secondary importance if it did not drop it altogether" (italics mine). Cf. Wilson, *op. cit.*, p. 121.

¹⁹*Id.* 134.

²⁰*Id.* 136 (italics mine).

²¹Cf. D. L. Keir, *The Constitutional History of Modern Britain, 1485-1937* (New York: D. Van Nostrand Co., 1938), p. 271. But cf. Lamprecht, *op. cit.*, p. 145: "The people [in Locke's system] as much as the legislative are morally bound to abide by the contract, and cannot, with changing whims, annul one contract to make another."

²²Sir William Blackstone, *Commentaries on the Laws of England* (Philadelphia: J. B. Lippincott & Co., 1850), i. 213: "The principles of Mr. Locke . . . would have reduced the society almost to a state of nature; would have levelled all distinctions of honour, rank, offices, and property; would have annihilated the sovereign power, and in consequence repealed all positive laws; and would have left the people at liberty to have erected a new system of state upon a new foundation of polity." This is strong evidence in favor of the interpretation of Locke urged in the present treatise.

themselves the second of these questions rather than the first, they would, as we shall show in (c) and (d) below, have used more cautious language in expounding Locke's ideas on sovereignty.²³

(b) Nothing is easier, in writing about the *Second Treatise*,²⁴ than to forget that it is a book about politics and political institutions, and to proceed to treat it as if it were merely a book on ethics. All six of the aforementioned theses regarding the law of nature are, as we have shown, enunciated at some point in its argument; and none of them seems easy to square, at the limit, with the doctrine of unlimited sovereignty. We must, however, guard equally against the mistake of taking *one* of them as the doctrine of the "real" Locke and writing the others off as inconsistencies (for who can say which we should take?), and the mistake of confusing what we think he should (on his own ethical principles) have said about politics with what he in fact said. It is not improbable that behind the practical recommendations of every political theorist there lies a more or less articulate and more or less consistent theory as to what, in an ideal world, the limits upon governmental power ought to be. That governments should not violate the moral law, that they should not destroy or enslave or impoverish, that they should be stripped of authority when they begin to abuse it—these are propositions to which all (save only the perverse and sinful) who think about politics would unhesitatingly agree; and it is certain that Locke believed all of them. The differences between political theorists (in the light of which we distribute them into "schools") emerge when we consult them upon the *concrete institutional arrangements* which they are prepared to urge upon constitution-makers in a world in which the moral law must take its chances with the apparent necessity of placing the *legal* "right of making laws, with penalties of death and consequently all less penalties," in the hands of some person or group of persons—a world, furthermore, in which it is often difficult to decide whether or not a given law *is* one which destroys, enslaves, or impoverishes. Rules of morality and declarations of rights do get themselves written into constitutions, and perhaps, as Professor Laski maintains, it is well that they should.²⁵ But American experience with (*e.g.*) the so-called "penal clause" of the Fourteenth Amendment suggests that they affect the course of subsequent events only where (a) persons yet living demand that they be respected, and (b) power to enforce them happens to be in the hands of those persons and not others.²⁶ And in that background, the way to discover how

²³Cf. Carpenter, *op. cit.*, p. 103: "In Locke's theory, sovereignty can exist nowhere except in the community as a whole. This is the original and supreme will which organizes the government and defines its just powers." Cf. John Neville Figgis, *The Divine Right of Kings* (Cambridge: University Press, 1914), p. 242.

²⁴As the reader may see from Chapter IV above.

²⁵Laski, *Grammar of Politics*, p. 305.

²⁶Cf. *ibid.*, p. 103: "Rights are not merely, or even greatly, a matter of the written record. Musty parchments will doubtless give them greater sanctity; they will not ensure their realisation."

far a given political theorist is willing to go with the exponents of popular sovereignty is by fixing attention upon the facilities he would like to provide for the translation of popular will into governmental policy, and the facilities he would like to provide for preventing such translation when it might result in (*e.g.*) violation of the moral law, or action against the public good, *etc.* Locke never says, as Rousseau does,²⁷ that if a people wishes to do itself hurt no one has a right to prevent it from doing so, but his political system is that of a man who believes this; and as we shall see in (c) and (d) below, those seeking ammunition with which to defend America's peculiar institution will look in vain for it in the *Second Treatise*.²⁸

(c) The drift of Locke's mind, where it concerns itself not with problems of pure right but those of right within the context of political organization, comes most clearly to light in those sections of the *Second Treatise* which deal with the right of revolution. It is in these sections that the significance of the limitations which he imposed upon his government may be seen in its most naked form. His doctrine is the simple one that "the community perpetually retains a supreme power of saving themselves from the attempts and designs of anybody, *even of their legislators*, wherever they shall be so foolish or so wicked as to lay and carry on designs against the liberties and properties of the subject";²⁹ that, in a word, "there remains . . . in the people a supreme power to remove or alter the legislative, *when they find the legislative act contrary to the trust reposed in them.*"³⁰

The problem posed by such passages is, as we have pointed out above, that of the meaning we should assign to the word "trust." Lord, for example, finds in Locke only a "modified" right of revolution,³¹ and Sabine sees in him what Rousseau was (he thinks) entitled to regard as an "unwarranted limitation on the power of the people to govern itself as it saw fit"—on the grounds, apparently, that the people, in Locke's system, can resume its power only by dissolving the government!³² It cannot, however, be too strongly emphasized that Locke, though sufficiently familiar with the idea of contract to base upon it his entire account of political obligation, uses another vocabulary in describing the relation between people and legislative, and that *he makes no*

²⁷Rousseau, *op. cit.*, ii. 12.

²⁸Cf. Louis B. Boudin, *Government by Judiciary* (New York: William Godwin, Inc., 1932), I, p. 82: "Clearly, Locke's opinions were not favorable to the establishment of government by judiciary; and . . . the most influential of the Framers of the United States Constitution thought exactly as did Locke, both in the matter of the submission of the minority to the majority, as well as in the matter of there being 'no judge on earth' between the people and the Legislature, and the 'appeal to Heaven.' And, what is more to the point, they thought they had actually put Locke's doctrine into the Constitution."

²⁹*Ibid.*, 140 (*italics mine*).

³⁰*Ibid.* (*italics mine*).

³¹A. R. Lord, *The Principles of Politics* (Oxford: The Clarendon Press, 1921), p. 50.

³²Sabine, *op. cit.*, p. 535. He sees in Locke the "persistence" of a tradition in which "a kind of indefeasibility in the right of the king and other governing organs" was regarded as compatible with "the right of a community to govern itself."

secret of the fact that such reciprocal obligations as may be conceived to have taken place between people and government are, at any given moment, merely what the people concede them to be. In short, to think of the "trust" by which the government acts as a contract is to think of a contract whose terms are (by its own provision) to be interpreted unilaterally by one of the parties—i.e., to deprive the term "contract" of all of its ordinary meaning; and the critics have, in point of fact, been overlooking the joker in Locke's description of the relation. To say that the people can remove the legislative when they are of the opinion (= "when they find")³³ that the legislative has acted against the public good (= action "contrary to the trust reposed in them") is merely to say that the character of that trust is defined from moment to moment by what *we* are accustomed to call public opinion. Locke even goes so far as to concede, at one point, that the solution which he is proposing for the problems of politics involves laying "the foundation of government in the . . . opinion and . . . humour of the people!"³⁴

Nor is this all that the critics have overlooked in Locke's account of this matter. One of the passages reproduced above continues as follows: "The trust must necessarily be forfeited, and the power devolve into the hands of those that gave it, *who may place it anew where they shall think best for their safety and security.*"³⁵ The right of revolution, that is to say, involves a right to put in the place of the legislative against which it is exercised one which is agreeable to the "opinion" and "humour" of the people—a right in the people to formulate their own notions as to what is "best for their safety and security" and, subsequently, to place power in the hands of men who will use it in accordance with those notions.³⁶

It is a matter of some interest that Dunning, whose interpretation of Locke's theory coincides to a considerable extent with our own, finally falls back into the very error from which he appears to have written himself free. He says:

The society thus becomes, by the act of the individuals who form it, vested with the function of determining what are offences against the law of nature, and punishing violations of that law [wherefore anything is a violation of the law of nature which the society chooses to define as such?].³⁷

And, again:

As that which underlies government and becomes active only when government is dissolved, the "community" [= the people?], . . . is held always to be the

³³Cf. xix. 240: "The people shall be judges." He is replying to his own question as to who shall determine when a violation of the trust has occurred.

³⁴xix. 223: "To this, perhaps, it will be said that the people being ignorant and always discontented, to lay the foundation of government in the unsteady opinion and uncertain humour of the people, is to expose it to certain ruin . . . I answer . . . [that] people are not so easily got out of their old forms as some are apt to suggest."

³⁵xiii. 149 (italics mine).

³⁶Cf. xi. 141: "When the people have said, 'We will submit, and be governed by laws made by such men and in such forms,' nobody else can say other men shall make laws for them" (italics mine).

³⁷William Archibald Dunning, *A History of Political Theories from Luther to Montesquieu* (New York: The Macmillan Co., 1905), pp. 349-350.

supreme power; . . . supremacy . . . belongs to that which is in the fullest sense the embodiment of [the public will of the society].³⁸

So far in full agreement with our own interpretation; but not so in the sequel:

There is in this conception nothing of that absolute, unlimited, and uncontrollable sovereignty which was the soul of Hobbes' system.³⁹

How are we to explain the fact that Dunning, having read Locke too carefully to attach to the limitations upon Locke's *government* the importance which they have assumed for other scholars, is yet unwilling to concede that what Locke ascribes to the society for which the government acts is *sovereignty*? Fortunately, Dunning has himself provided the answer to this question:

The natural rights of the individual limit the just power of the sovereign community precisely as they limited in the state of nature the just power of other individuals.⁴⁰

In short, the explanation must be made in terms of the "persistence" of the notion (which we have already criticized in an earlier section) that Locke was, first, last, and always, the philosopher of inalienable individual rights. In the following section we shall examine the position of each of the individual members of Locke's political society *vis-à-vis* that society, attempting to show that the rights which he assigns to them are a function of, not a limitation on, the society's sovereignty.

(d) Before attempting to consider what Locke had to say about the obedience which the individual owes to the organized society of which he is a member, we must call attention to certain difficulties which the writer has deliberately ignored up to the present moment:

(1) We have, in the preceding section, taken no account of the possibility of differences of opinion between the members of a political society as to (*e.g.*) how it should employ its sovereignty, *i.e.*, its power of defining, and assessing penalties for, violations of the law of nature. We have, that is to say, simplified our discussion by equating the two questions: (a) what is the extent of the power which Locke claims for his political society? and (b) what is the extent of the power which Locke claims for the total membership of his political society—*i.e.*, for the people conceived in abstraction from the possibility of differences of opinion between them? Such a simplification has, be it noted, much to recommend it; since if we are to deal separately with the issues raised by the defenders of popular sovereignty (pure and simple) and those raised by the defenders of popular sovereignty plus majority-decisions regarding its exercise (= majority-sovereignty?) we must think, first of all, of a situation in

³⁸*Ibid.*, p. 353.

³⁹*Ibid.*, pp. 349-350. Cf. *ibid.*, p. 353: *So far as sovereignty is predicated by Locke in fact, if not in name, it is ascribed to the collective body which is created by the social pact*" (italics mine).

⁴⁰*Ibid.*, p. 350.

which one might defend popular sovereignty without expressly committing oneself to majority-sovereignty; and the obvious example is a situation in which there is no dissident minority, thus unanimity. Or, to put the same thing in another way, we may tell ourselves that we have raised the question of the extent of the society's powers in its purest form when we state it with reference to a situation in which all methods of making decisions (except, possibly, decisions by lot)⁴¹ about the use of those powers would come to the same thing. Purely aside, however, from the psychological improbability of unanimity, such a statement of the problem is unrealistic because all the interesting questions about the extent of a society's powers concern situations in which no problem would arise but for the *existence* of differences of opinion among its members. These questions are always, that is to say, questions as to what should be done when one of the society's members, or a group of its members, steps forward to insist that what is about to be done in the society's name *should* not be done (because unjust, unwise, unnecessary, or unprecedented)—a statement which, be it noted, applies equally to decisions about internal and external policy, since a society whose members are unanimous in their support of a given external policy can evidently adopt no other. Historically, therefore, attacks upon the doctrine of sovereignty have come always from those who would like to make it possible for individuals and groups of individuals to prevent the action contemplated at such moments; and we are brought face to face with the curiosity that while we can (and must) distinguish between popular sovereignty and majority-sovereignty, by conceiving of the former in terms of unanimity, any particular exercise of popular sovereignty either ranges some of the society's members against others, thus (save in the improbable case of an unbreakable tie) a majority of those members against a minority, or poses no problem for theory to solve. Since, however, it is easy to conceive of arrangements whereby the power to make decisions regarding the exercise of the society's powers has been entrusted to a minority, the necessity of distinguishing between the sovereignty of the society and the sovereignty of the majority remains.

The simplification is further recommended by the fact that (along with the difficulty it involves) it is Locke's own—*i.e.*, he treats as a discrete question the claims of the majority of its members to exercise the power he attributes to the whole, and, in such a passage as that reproduced on page 99 above, he is clearly treating the society as (constructively) unanimous *although* the members of the legislative are evidently members of the society.⁴²

⁴¹"Possibly," because it appears improbable that a decision which nobody favors will be enforced.

⁴²Cf. Aaron, *op. cit.*, p. 276: "On . . . [Locke's] view the contract is between all the members of the society, as a consequence of which a trust is imposed upon one or more individuals. The ruler does not stand opposite to the people; he is one of them, but entrusted with exceptional duties."

(2) Locke was not especially concerned, in connection with his theory of popular sovereignty, with the problem for which (as we have just pointed out) modern liberalism has sought a solution, namely, that of the limits of the society's power over the individual member *as such* (rather than as an official of the society)—any more than, in his discussion of the majority's power over the minority, he was concerned with the question of possible abuse by a governing majority of its power over a governed minority. As Professor Lerner has lately reminded us, we live in a period in which things have happened to *governed* minorities and individuals which oblige us to give careful consideration to the problem of how they may be protected against "tyrannical" majorities.⁴³ Locke, in contrast, had clearly been seized of that which in his day was happening to *governed* majorities at the hands of minorities and individuals, and it was in this form that the problem involved most readily presented itself to his mind. Nevertheless, as we are about to show, he puts forward propositions which commit him on the issue as we discuss it today, and it is to these propositions that we direct the reader's attention in the following paragraphs:

Locke's teaching on this point is, quite simply, that which (erroneously, in the present writer's opinion) is usually attributed to Rousseau: The individual owes to the commonwealth of which he is a member a duty of obedience which is absolute and perpetual, and *must* be absolute and perpetual because the alternative is the anarchy of the state of nature:

The power that every individual gave the society when he entered into it can never revert to the individuals again, as long as the society lasts, but will always remain in the community; because without this there can be no community—no commonwealth.⁴⁴

The power which the individual "gave up" includes *both* his power to "do whatever he thinks fit for the preservation of himself and others"⁴⁵ and his "power of punishing"⁴⁶—and he gives them up, according to Locke, with the understanding that they are both to be exercised by the society,⁴⁷ which can subsequently call upon him to assist in the enforcement of its laws:

He has given up a right to the commonwealth to employ his force for the execution of the judgments of the commonwealth whenever he shall be called to it,

⁴³Although minorities have surely suffered least in the only country which has entrusted unlimited power to the numerical majority of its citizens. Cf. Lerner, *op. cit.*, p. 107: "What has happened to minorities in our day makes many of us fear majorities." Cf. Sarinolos, *op. cit.*, p. 268: "Aujourd'hui, à la fin du XIX^e siècle, il s'agit en fin de fonder la vraie liberté et de protéger la minorité contre les *privilèges* de la majorité. La minorité demande aujourd'hui, comme la majorité avant la Révolution, à être quelque chose."

⁴⁴xix. 243. Cf. Rousseau, *op. cit.*, i. 6, where we are told that the contract remains in force only "jusqu'à ce que, le pacte social étant violé, chacun rentre alors dans ses premiers droits, et reprenne sa liberté naturelle."

⁴⁵Not, as Dunning incorrectly supposes, one power only. The misunderstanding is apparently due to Locke's unfamiliar use of the word "single" in the sentence (ix. 127): "It is this makes them so willingly give up every one his *single* [= private?] power of punishing, etc." Cf. Dunning, *op. cit.*, p. 349.

⁴⁶ix. 128.

⁴⁷ix. 130.

which, indeed, are his own judgments, they being made by himself or his representative.⁴⁸

Furthermore,

. . . every man when he at first incorporates himself into any commonwealth, he, by his uniting himself thereunto, annexes also, and submits to the community those possessions which he has, or shall acquire, that do not already belong to any other government. . . . They become, both . . . person and possession, subject to the government and dominion of that commonwealth as long as it hath a being.⁴⁹

Translated into the political vocabulary of our own day, these statements say as unambiguously as possible that (whatever may be the position of the individual *vis-à-vis* a government which he believes to have violated its trust and thus to have surrendered its title to act in the name of the commonwealth)⁵⁰ where the government's title to act in the name of the commonwealth is beyond dispute (or where the community itself acts as a legislature), the individual's rights (including his rights of property) are merely those vouchsafed to him by the positive law of his society. The individual may feel that a given law infringes upon his "natural" rights (*i.e.*, that it is morally outrageous), or that it is directed to some other end than "the peace, safety, and public good of the people",⁵¹ but he cannot withhold his obedience, because membership in a commonwealth involves as a matter of course the surrender both of his private judgment and of his power to act upon his convictions. If, for example, he is a Quaker, and the law with which he is confronted is a declaration of war which provides for conscription, it becomes his duty not only to participate in the hostilities, but also, if called upon to do so, to assist in the coercion of conscientious objectors. Thus, while Carritt can find ample support in the *Second Treatise* for his statement to the effect that Locke "is one of those who think we ought to obey a government so long as it on the whole secures justice and happiness,"⁵² he should not have gone on to say, on the strength of that statement, that "with all . . . [its] faults . . . his account of political obligation seems to me the best."⁵³ For in saying this he not only overlooks the major implications of Locke's real theory of political obligation (= that which describes the individual's obligation to the political unit of which he is a member), but also absolves Locke from responsibility for the introduction into modern political theory of the dangerous equivocation which was finally to develop into what Hobhouse has called the "meta-

⁴⁸vii. 88 (italics mine). Cf. vii. 89: "He authorises the society, or which is all one, the legislative thereof, to make laws for him as the public good of the society shall require, to the execution whereof his own assistance (as to his own decrees) is due." Cf. ix. 130.

⁴⁹viii. 120 (italics mine).

⁵⁰The reservation is necessary because Locke clearly intended that the commonwealth should regard itself as free to alter its government by revolution, and the revolution would of necessity be made by individuals.

⁵¹ix. 131.

⁵²Carritt, *Morals and Politics*, p. 79.

⁵³*Ibid.*

physical theory of the state."⁵⁴ For Locke (as we have seen) is saying, before Rousseau, two centuries before Bosanquet, that the commonwealth's judgments (= its laws = its will⁵⁵) are the individual's own judgments (= his will), and is saying it in such fashion as to suggest that they are the individual's judgments *whether he agrees with them or not, i.e., they are the individual's judgments even when he consciously disagrees with them*. Nor can it be argued that this is to read into a single passage a meaning which is at variance with the remainder of Locke's argument, for he must be very deaf indeed to the nuances of political discourse who cannot detect in the following lines the elements of the distinction between the "actual" will of the individual and the "real" will which is his whether he thinks it is or not, as also of the insistence that freedom consists rather in the presence than the absence of constraint (*i.e.*, the insistence which Hobhouse treats as the essence of the "metaphysical" theory):

Law, in its true notion, is not so much the limitation as the direction of a free and intelligent agent to his proper interest [even when it directs him to that which he regards as against his interest?]. . . . That ill deserves the name of confinement which hedges us in only from bogs and precipices. . . . The end of law is not to abolish or restrain, but to preserve and enlarge freedom.⁵⁶

Locke's use of the word "law" is, to be sure, ambiguous in the extreme, since it means now the positive law and now that which the positive law ought to be (= the law of nature); but since in the discussion cited he says "this holds in all the laws a man is under, whether natural or civil,"⁵⁷ we are entitled to suppose that it provides a reliable index to Locke's opinions regarding the individual's right to call into question the binding character of the law of his community.⁵⁸

It is interesting to notice, in this background, that Locke, like more recent writers whose minds have run to an absolute obligation on the part of the individual to regard the will of his community as his own will, does not hesitate to press à l'outrance the analogy between the relation of the community to its members and the relation of the organism to its parts. "When," he writes, "any number of men have so consented to make one community or government, they are thereby presently incorporated, and make one body politic";⁵⁹ and political power is "that power

⁵⁴L. T. Hobhouse, *The Metaphysical Theory of the State* (London: G. Allen & Unwin, 1918).

⁵⁵xiii. 151.

⁵⁶vi. 57.

⁵⁷vi. 59.

⁵⁸*Cf. ibid.*: "Is a man under the law of England? what made him free of that law—that is, to have the liberty to dispose of his actions and possessions, according to his own will, within the permission of that law? a *capacity of knowing that law*" (italics mine). Thus he can argue, a few lines later (vi. 60) that whilst he is incapable of "knowing the law, and so living within the rules of it," a man should be "continued under the tuition and government of others." This is, evidently, to say that the individual may take his choice between being treated like a child, on the one hand, and making his will conform to the law of the community, on the other hand.

⁵⁹xiii. 95. *Cf. Rousseau, op. cit.*, iv. 1: "Tant que plusieurs hommes réunis se considèrent comme un seul corps, ils n'ont qu'une seule volonté." *I.e.*, so long as a group of men have a single will they have a single will—a statement which is less startling than Locke's, but somewhat more convincing.

... to make laws and annex such penalties to them as may tend to the preservation of the whole, by cutting off those parts, and those only, which are so corrupt that they threaten the sound and healthy, without which no severity is lawful."⁶⁰ Such a passage, furthermore, gives us the most concise answer we shall find to the question raised in the present chapter: Even the individual's right to life is valid only to the extent that it is compatible with the good (= preservation) of his community, and it is the people, not the individual, to whom Locke has clearly imputed the power to make the necessary judgments as to what is compatible with its preservation.⁶¹ This, then, is our reply to Dunning: If that which Locke claims for his community is not unlimited sovereignty, where would one turn, in the literature of politics, to find a sovereignty which *is* unlimited?⁶²

We now have before us the main elements of the individual promise which is presupposed by Locke's theory of popular sovereignty; and we may, without injustice to his argument, proceed at once to the line of criticism which we propose to direct against it. The individual has, it must be remembered, made the promise in order to escape the inconveniences which attach to existence outside an organized society: uncertainty as to the nature of his own rights and duties, and those of other men, inadequate guarantees of impartial arbitration where differences of opinion arise between him and other men, insufficient machinery for the enforcement of his rights when the law is on his side. So long, therefore, as the individual is able to see that he has got a good bargain, that by keeping the promise he is in fact looking, in the best possible manner, to his own preservation and welfare, and insofar as Locke is prepared to overlook the second thesis above and stand by the first, the most that can be said about the promise he describes is that it is unnecessary—since under the first thesis he is apparently obligated to keep good bargains whether he has promised to or not. But, as we have now seen at some length, the promise is to be kept even when the bargain turns out badly, and involves a previous commitment by the individual to accept the verdict of the remaining members of the society with regard to every difference of opinion between himself and them on matters of right; and (leaving to one side the first thesis and concentrating now on the fifth) he has made himself accountable for a demonstration that, in the presence

⁶⁰XV. 171. Cf. Rousseau, *De l'économie politique*, pp. 25-26, where he condemns this notion as "une des plus exécrables que jamais la tyrannie ait inventées."

⁶¹Cf. Aaron, *op. cit.*, p. 287: "Locke is an individualist, and yet his individualism is left undefined; for no definite solution is to be found in his works of the vexed problem of the relations between the individual and the community."

⁶²Bearing in mind the fact that Lamprecht is one of the critics who have found in Locke no trace of the idea of sovereignty, the reader may profitably compare the account we have just given of the power of Locke's community over the individual with what, in another writer, Lamprecht regards as "absolutism" (*op. cit.*, p. 45): "While even Hobbes exempted men from obeying commands which ordered them to take their own lives or to give up their means of livelihood, Filmer refused to tolerate such slight exemptions. In Filmer the absolutism of the monarch reaches its most extreme statement."

of such a difference, the remaining members of the society will exercise their power *impartially*. That is, Locke must either show us that the remaining members of the society will, at such a moment, judge impartially, in which case the promise to obey was one which the individual could rightfully make and ought therefore to keep, or he must admit that his theory represents each individual as having subjected himself to the absolute, arbitrary will of the remaining members. In the latter case the promise would not (on Locke's showing) be a binding one.

What we cannot permit Locke to do, in all this, is to surround his doctrine regarding the society's sovereignty over the individual with the atmosphere of reasonableness and impersonality which attaches, superficially at least, to arrangements calling for decisions in accordance with the unanimity-principle—a principle to which Locke makes his appeal every time he says that a man can be bound only by his own consent. Or (what comes to the same thing) we must now demand of him that he pay the price for his attempt to have it more ways than one with his law of nature. According to the first thesis, the individual's obligation (thus also the society's sovereignty) would necessarily cease at that moment when further discharge of the obligation would clearly militate against preservation of his life, liberty, and estate. According to the sixth thesis, a man cannot give up his power to resist force when, in his own opinion, it is exerted upon him without right; and Locke clearly wants to reply that the question does not arise with regard to coercion by the community, because the right flows from the individual's own previous consent. When, however, we take him at his word about this, and proceed to examine what he has to say about consent, we discover (a) that the individual is represented as having consented only to the exercise of impartial authority, and thus, apparently, would not be bound to obey community authority when exercised in a partial manner, and (b) that the individual has, in Locke's belief, no right to consent to authority of any other kind. The obvious solution to the difficulty would evidently have been to propose a political system in which, as in his state of nature, laws would be made and governmental arrangements established only with unanimous approval, and subsequently changed only by unanimous approval—*i.e.*, approximately the kind of system which Burke defends. When, under such a system, the individual finds himself the victim of what he believes to be an unjust law, he can at least be reminded that he has himself, in a cool moment, set his seal to its reasonableness, and that, in any case, nothing can be changed in a sense unfavorable to himself except with his own approval. Locke was logically estopped from proposing such a system by the insight which we have presented as his fourth thesis—*i.e.*, by the knowledge that today's justice may be to-

morrow's injustice because of a change of conditions; and, evidently with a view to preventing the indefinite perpetuation of ancient enactments which are no longer defensible, he proceeds to shift his ground from unanimity at some moment in the past as an ultimate criterion of right to virtual unanimity (either in the present or at some time in the past) as an ultimate criterion of right. The society can come into existence only by unanimous approval of its members; but subsequently, by making a revolution, the people (no longer represented as strictly unanimous) may change the society's character in any way they see fit, and require of the individual (*e.g.*, the individual member of the legislative they have turned out) the same duty of obedience which he owed before the revolution. The people have, in short, consented unanimously to something less than unanimity as an ultimate criterion of right; and Locke is evidently asserting that such consent is valid.⁶³

The issue posed here may be stated very simply indeed, and since it is, in effect, the Great Divide which separates the defenders of popular sovereignty from their opponents (and, ultimately, the defenders of majority-rule from their opponents), we shall be well advised to grasp it as clearly as possible at this point. Here are a group of people united together in order to enjoy the benefits of just and reasonable government. A difference arises amongst them as to what is just and reasonable, and investigation reveals that the opposing factions consist of one individual, on the one side, and the remainder of the community, on the other side. Does either have a *right* to impose its view of what is just and reasonable upon the other? Can either judge impartially in what is, by definition, its own cause? Locke's theory of popular sovereignty obliges him to answer the second question in the affirmative, and the first with the words, Yes, the rest of the community has such a right.⁶⁴ And, since the only difference between the two (the community minus one of its members, and the individual) which leaps to the eye is that the one is many individuals and the latter is only one, he is obliged to say that numbers guarantee impartiality.

An ocean separates those who, confronted with the above problem, are willing to make Locke's answer, and those whose cast of mind makes it necessary for them to argue that no answer can be given on the facts

⁶³Here, again, Rousseau is much the more cautious of the two. Cf. Rousseau, *Contrat social*, i. 6: "La loi de la pluralité des suffrages est . . . un établissement de convention, et suppose, au moins une fois, l'unanimité" (italics mine).

⁶⁴Cf. *ibid.*, ii. 4: "En effet, sitôt qu'il s'agit d'un fait ou d'un droit particulier sur un point qui n'a pas été réglé par une convention générale et antérieure, l'affaire devient contentieuse. C'est un procès où les particuliers intéressés sont une des parties, et le public l'autre, mais où je ne vois ni la loi qu'il faut suivre, ni le juge qui doit prononcer" (italics mine). It is interesting to notice that Professor Friedrich, who, as we have seen, regards Rousseau as in some sense responsible for the excesses of those who attach too much importance to "approximate majority support," is in this matter (as Rousseau clearly was not) a thorough-going majoritarian. Cf. Friedrich, *Constitutional Government and Politics*, p. 454: "The narrower the special interest is, the lower is the representative quality of those whose actions are directed towards its realization. And an interest is narrow or broad depending on the number of human beings whose interest is identified with it" (italics mine).

stated—i.e., that the community may be right, or the individual may be right, or they both may be wrong. (We repeat that Locke cannot seriously contend that the community is right because the individual has promised to regard it so, because unless there be reasons for regarding the community as right [= impartial] at such a moment, the promise is not a valid one.) We make no attempt to adjudicate the issue at stake, our purpose being merely to show what position Locke finally adopted with regard to it and what consequences the position involves for the consistency of his argument. And the charge we are bringing against him is that he has attempted to argue from unanimity as a criterion of right (a criterion which is, in some sense, consistent with the fifth thesis) to constructive, or virtual, unanimity (as revealed in his discussion of the right of revolution) as an equally acceptable criterion of right. If Locke had stayed with the unanimity-principle, we are saying, he would have made no distinction between a situation in which an individual wishes to alter existing arrangements, and one in which all individuals except one wish to alter them; for under the rule *pacta sunt servanda* the two situations are indistinguishable, the individual having the same right of revolution against the society as the society has against the individual, which is none at all. And we are insisting that Locke's right of revolution is, in effect, a right on the part of the bulk of the community to treat as non-members those who take exception to its opinions, a right which is wholly inconsistent with the fifth thesis.

There is much to be said against the unanimity-principle as a criterion of right in an organized society, but there is this to be said in its favor: that where action can be taken under it at all there is some sort of presumption that the action taken is the wisest and most reasonable of which the deliberators are, as a group, capable. Every disputant among them must have been heard and convinced before action becomes possible; every suggestion that the action about to be taken is unwise or unjust must have been refuted to the satisfaction of him who has put it forward. By providing a maximum of guarantees against new decisions of all kinds, it provides a maximum of guarantees against new decisions which are unwise or unjust. Thus, although unanimous decisions do become unanimous only by the accumulation of individual approvals, they do not owe their peculiar quality to the *number* of the approvals—or, at least, the further claim may be made for them that they are underwritten by the reasoning process itself insofar as the deliberators in question are capable of reasoning. The unanimity-principle, that is to say, forces the deliberators to observe the basic rules of the reasoning process: consideration of all evidence available, attribution of equal weight to all points of view, etc.; and of decisions made under it we may say not only

that they have secured general approval, but also (with *some* confidence)⁶⁵ that they have been able to withstand all the criticisms urged against them by all the minds consulted with respect to them—which is apparently the most that can be said for any decision at any particular moment. This is important because those who take inadequate notice of this characteristic of unanimous decisions yield easily to the temptation of arguing that since unanimous decisions are best, almost unanimous decisions are next best, and thus the best possible where complete unanimity cannot be secured. The only theorist whom the writer has found ready to put this argument forward thus unambiguously is Starosolskyj;⁶⁶ but the ease with which Locke makes the transition from the one position to the other in his theory of sovereignty suggests that he had something of this kind in mind, and it cannot be too strongly emphasized that *there is no connection between the premise and the conclusion*. Where there is virtual unanimity only there is opposition, *i.e.*, there are unsatisfied objectors, *i.e.*, minds which, by withholding approval, create a presumption against the decision—a presumption whose strength bears no demonstrable relation to the number of the unsatisfied objectors, and one which all of us have seen vindicated with disturbing frequency in situations in which the objectors have been few. The arguments in favor of the unanimity-principle cannot, therefore, be applied *a fortiori* to the defense of virtually unanimous decisions, because the distinctive quality of unanimous decisions is not a quality of which decisions may partake to a greater or lesser degree; either, that is to say, all the objections have been answered or they have not. This is not to say, of course, that the principle of unanimity is a better principle for political societies to adopt than a principle requiring only virtual unanimity, or that the right of nearly all the members of a commonwealth to revoke previous decisions is less susceptible of defense than that of all the members. What we can say is (a) that Locke could have claimed for decisions made under the *liberum veto* something of the impartiality and impersonality which would legitimate (under the fifth thesis) the promise which he demands of the members of his society, and (b) that the right of *nearly all must be defended on different grounds* than that of all. But Locke's attempts to find such grounds—as we shall encounter them in the next chapter—are remarkably unsuccessful, and as we present him here he is either not arguing at all (*i.e.*, merely asserting) or arguing (on what level of awareness we do not endeavor to say) from the proposition that all (thus also the few) are bound by that to which all *have* consented, to the proposition that the few are bound by that to which the rest *have consented* (as after a revolu-

⁶⁵With *some* confidence only, because of the possibility that objections have been withdrawn by objectors who, though by no means satisfied, have yet despaired of convincing others and are unwilling to stand in the way of action.

⁶⁶Starosolskyj, *op. cit.*, p. 56.

tion), and thence to the proposition that the few are bound by that to which the rest *now consent*—wherefore he can insist, as he does, that the government which calls down on itself a revolution is itself rebellious, the "law" presumably having changed at the moment when the society (= the members minus the government and its supporters) recognized the necessity for making one.⁶⁷ Neither of these steps is legitimate.

Locke's failure to take account of the above difficulty is astonishing, but less astonishing, on the whole, than his failure to offer the sort of defense for the (virtually unanimous) community's right of revolution that we should expect from him in the light of his usual handling of the subject of rights and duties. As we have seen in an earlier chapter, Locke elsewhere reveals a profound insight into the problem of rights and duties, representing the former as, in a manner of speaking, merely another way of looking at the latter, and both as determined by a common or collective good. If, therefore, he proposes to speak in terms of a duty in the individual to obey the rest of his community and a right in the rest of the community to coerce the individual, he should tell us not only why the individual has (as compared to the rest of the community) that lesser duty to promote the public good which is the correlative of his lesser right to make laws and use the force of the community in its behalf, but also why the concession to the bulk of the community of a right to remove and install governments should result in the promotion of the public good. The latter problem would have led him into an analysis of that public opinion which he briefly mentions, and of the relation between the public good and widely-received opinion as to what is good. But neither problem appears to have occurred to him, and we are obliged, therefore, to urge against the right he claims for the bulk of the community the objection that it will not bear examination in the light of his own theory of rights.

⁶⁷xix. 226.

CHAPTER VII

THE RIGHT OF THE MAJORITY

When any number of men have . . . consented to make one community or government . . . the majority have a right to act and conclude the rest.¹

THIS IS Locke's clearest statement of his doctrine regarding what we have called in our Introduction the majority-principle, and it is, be it noted, so phrased as to fit very neatly into our interpretation of the compact. Wherever men live in community with one another, he is saying, the relations between them can be described in terms of an agreement which, in addition to assigning to the whole community that unlimited power which we have examined in the preceding section, assigns to its numerical majority a *right* to make decisions (regarding the use of that power) which are binding upon the minority. The majority-principle is, in a word, implicit in the logic of community life.

It is not only Locke's clearest commitment to the use of the majority-principle, but also the most concise statement of the faith of the majority-rule democrat that the present writer has been able to find in the course of his investigation; and we shall greatly clarify the problem of the present section if we face at once all that it implies. Assuming—as, in the context in which it is claimed, we must assume—that the right to which the statement refers is an ethical right, then it necessarily follows that decisions made by the majority (= action taken by the majority) are in some definable sense ethically right decisions, since, in the absence of convincing proof to the contrary, it is necessary to suppose that there can be no such thing as an ethical right to make an ethically wrong decision. It follows, again, that any decision other than that of the majority is in some definable sense ethically wrong. It follows, yet again, that a decision comes to be right the moment it marshals majority support behind it, and ceases to be right the moment the "marginal" deliberator switches sides and reduces the erstwhile majority to a minority. And since these corollaries do clearly follow from it, it is to Locke, not to any recent writer, that Professor Friedrich should give credit for a "statement of the majoritarian position" which "avoids all subterfuges."²

We shall greatly clarify our problem, too, by facing at once the implications of Locke's proposition about the right of the majority with regard to the questions dealt with in the preceding sections. The indi-

¹vii, 95.

²Friedrich, "One Majority Against Another," p. 43. Cf. Vaughan, *op. cit.*, I, p. 166: "This [Locke's statement on the power of the majority] amounts to a blank cheque drawn in favour of 'the majority,' and eventually filled up either to tens or millions, as fortune may decide."

vidual has, as we have seen, an irrevocable obligation to obey the community of which he is a member; but the majority has a right to act for the community; and the individual's irrevocable duty of obedience thus turns out to be an irrevocable duty to obey the majority. The inalienable rights of the individual are, as we have seen, such rights as may be compatible with the public good of his society, and, as we have further seen, that public good is merely that which the "opinion" and "humour" of the people designate as good; but since the majority of those people have a right to conclude the rest, the inalienable rights of the individual prove to be merely those which the majority of the people have not yet seen fit to withdraw.³ The "proper interest" of each individual lies in obedience to a law decreed by a legislative which, as we have seen, is presumed to enjoy the confidence of the community; but since the majority can act for the community, and can thus exercise the community's right of revolution and its right to replace the old government with a new one to its liking, the proper interest of the individual becomes merely unquestioning obedience to the will of the majority. Here, in short, is the Rousseauism which is nowhere to be found in the *Contrat social* and the *Gouvernement de Pologne*; and it is a matter of no little interest that Locke, apparently because the platitudes about morals which we have examined in the opening sections of this chapter cannot be squared with such a position, has got off with so little responsibility for the introduction of such notions into modern political theory.⁴

We now turn to consider the arguments by which Locke supports this proposition.⁵

First Argument. The right to live under a government agreeable to the majority is a natural right of all men—or, in Locke's own language, men have a "native right . . . to have such a legislative over them as the majority should approve and freely acquiesce in."⁶ This Locke does not seek to demonstrate; and we need only take notice of its presence in

³But cf. Wilson, *op. cit.*, pp. 218-219: "Locke's *Two Treatises* put above the rough determination of majority vote the immutable natural rights of man."

⁴Thus Vaughan, who in view of the comment reproduced in n. 2 above, can hardly be accused of having overlooked the majoritarian emphasis in Locke's theory, yet clings to the notion that that theory is "not merely anti-despotic, but also markedly individualist" (*op. cit.*, I, p. 134). "*The Essay of Civil Government*," he writes (*ibid.*), "is . . . an assault . . . upon the very idea of sovereignty. Its shafts are aimed not merely against one particular form of sovereignty—doubtless the most oppressive and the least endurable—but against any form [thus against "blank cheques" to majorities?], even the mildest, that sovereignty can assume." Locke pleads for toleration for all save atheists and Catholics, and wins a reputation for having exercised "considerable" influence in "advancing the cause of toleration" (Lamprecht, *op. cit.*, p. 152); Rousseau pleads (*Contrat social*, iv. 8) for toleration for all save atheists and Catholics, and Vaughan (*The Political Writings of Rousseau* [Cambridge: University Press, 1915], I, p. 89) accuses him of advocating persecution. Rousseau writes (*op. cit.*, iv. 2) that provided "tous les caractères de la volonté générale sont encore dans la pluralité," I am more free when subjecting myself to the will of the majority than I would have been had I got my way—and wins recognition as a majoritarian! Locke, with no limiting conditions at all, equates the consent of the individual with that of the majority, and wins recognition as an individualist! Cf. Locke, xi. 140: "Governments cannot be supported without great charge, and it is fit everyone . . . should pay out of his estate his proportion for the maintenance of it. *But still it must be with his own consent, i.e., the consent of the majority*" (italics mine).

⁵It is instructive to notice that there is absolutely nothing in the *Contrat social* which can properly be called an argument for majority-right.

⁶xvi. 176. The writer has not attempted to list Locke's arguments in the order in which he introduces them.

the *Second Treatise* and remind the reader of Ritchie's pleasantry⁷ to the effect that the maxim, "No case; talk about the law of nature," plays in the profession of political theory a rôle analogous to that of the maxim, "No case; abuse plaintiff's attorney," in the practice of law.⁸

Second Argument. If the minority refused to be concluded by the majority, the society would speedily disintegrate; for, he insists, the only alternative is the unanimity-principle (= "nothing but the consent of every individual can make anything to be the act of the whole"⁹); and both because it is frequently impossible to consult everybody¹⁰ and because "variety of opinions and contrariety of interests . . . unavoidably happen in all collections of men,"¹¹ such a principle would deprive the society of the strength it needs in order to fulfill the purposes for which it was created.¹² In short, "where the majority cannot conclude the rest, there they cannot act as one body, and consequently will be immediately dissolved again."¹³

This we may call the argument from *necessity and expediency*,¹⁴ and the importance it has assumed in subsequent discussion of the case for majority-decisions is the most interesting indication we possess of the need for investigation of the problem by competent theorists. It is open to the following obvious objections:

(a) It is simply not true that a commonwealth must choose between decisions by majority-vote and dissolution after a brief period of experiment with unanimous decisions, since, as Locke must have known very well, the power to make decisions binding upon all of its members may (and often does) become lodged in a minority of the society's members. That is, Locke's dilemma is, in the form in which he states it, a false dilemma.

(b) If it *were* true that the society must choose between dissolution and the lodgment of decision-making power in the majority, this would not constitute a valid argument in favor of the proposition that wherever men have "consented to make a community," the majority have a right to make that community's decisions. Even conceding the inarticulate premise that all commonwealths have a right to continue in existence and to thrive, the most that can be deduced from it is a decision-making right in that part of each commonwealth which is in fact most capable of assuring to it a healthy existence. It is possible to conceive of circum-

⁷David G. Ritchie, *Natural Rights* (London: Swan Sonnenschein and Co., 1895), p. 31.

⁸Cf. Vaughan, *Studies*, I, pp. 140-141: "The answer of Locke is perfectly explicit: Those who make a social contract bind themselves to . . . regulate all their future proceedings by a bare majority: a provision imposed by that accommodating oracle, the law of nature, whose commands form the strangest assortment, ranging from *Thou shalt not kill* to *The odd man shall have the casting vote*."

⁹viii. 98.

¹⁰Cf. *ibid.*: "Infirmities of health and avocations of business . . . will necessarily keep many away from the public assembly."

¹¹*Ibid.*

¹²*Ibid.*

¹³*Ibid.*

¹⁴Cf. Wilson, *op. cit.*, p. 64: "Locke in his *Second Treatise* defends majority rule primarily on the ground of expediency, for without it civil society could not endure."

stances in which such a right might, on this showing, vest in the majority, but it is also possible to conceive of circumstances in which the majority-principle would conduce directly to the commonwealth's ruin. In such a case (leaving to one side the ever-present possibility of minority-rule) dissolution and majority-rule would appear to be equally undesirable.

For the rest, it seems improbable that the premise, according to which all commonwealths to which men happen at some time to have given their "consent," have a right to continue in existence and to thrive, can be successfully defended.

For all of its absurdity, in the form in which Locke states it, the argument contains the elements of a proposition which—although it still awaits its theorist—deserves (in the present writer's opinion) serious consideration as the point of departure for theoretically sound treatment of the majority-principle. For if, instead of saying that the society must either entrust decision-making power to the majority or face speedy dissolution, he had said that it must either entrust the decision-making power to the majority or cease to be *a society in which all can participate in the making of decisions*, he would not only have enunciated a proposition which cannot be so easily refuted as that which he does put forward, but also would have set his successors in the modern debate about majority-rule a problem worthy of their best speculative efforts.

Third Argument. Denial of the right of the majority to conclude the minority would deprive the commonwealth of its title to govern.¹⁵

That which begins and actually constitutes any political society is nothing but the consent of any number of freemen capable of majority, to unite and incorporate into such a society [*i.e.*, one in which all necessary power has been given up to the majority] This is that, and that only, which did or could give beginning to any lawful government in the world.¹⁶

Here, again, Locke is apparently very close to the idea which we have set forth at the end of our discussion of the second argument, and seems about to say that there are demonstrable differences between a society which does and one which does not make its decisions by majority-vote¹⁷—and differences which, from the ethical point of view, render the

¹⁵It is interesting to note the use which the members of a minority (in a society governed in accordance with Locke's ideas about majority-rule) might make of one of his pronouncements on absolute monarchy—*e.g.*, vii. 90-91: "Absolute monarchy . . . is indeed inconsistent with civil society, and so can be no form of civil government at all . . . [The absolute prince] being supposed to have all . . . power in himself alone, there is no judge to be found, no appeal lies open to any one, who may fairly and indifferently, and with authority decide, and from whence relief and redress may be expected of any injury or inconveniency that may be suffered from him, or by his order."

¹⁶viii. 99.

¹⁷It is on this level that Starosolskyj attacks the problem of majority-decisions. His book—the best we have on the subject—is an effort to demonstrate the theoretically necessary differences between what he calls the *Mehrheitsverband* and what he calls the *Herrschaftsverband* (*op. cit.*, pp. 22-34). Unfortunately, he defines the *Mehrheitsverband* in such fashion as to exclude any organization in which there exists a crystallized majority—*i.e.*, any organization in which the relations of subordination and superordination have ceased to be "indeterminate" (*ibid.*, p. 33). This means, of course, that the difference between the *Mehrheitsverband* and the *Herrschaftsverband* does not, at the limit, turn at all upon the fact that in the one decisions are made by the majority and in the other by an individual or a minority. Nevertheless, Starosolskyj has pointed the way to an adequate theoretical treatment of the problem, and if his theory could be restated in such fashion as to eliminate the confusion to which we have just directed attention, it might prove useful in the extreme.

former distinctly preferable. But he does not say this; and since he adds that where the members have "expressly agreed in any number greater than the majority,"¹⁸ that arrangement also is legitimate, it may well be that he does not intend even to imply it. (To stipulate in favor of decision-making by extraordinary majority is, obviously, to stipulate in favor of a *minority-right* to conclude the majority.) In short, the single clear implication of the statement, as it stands, is that any sort of government to which men have at some time consented is lawful, and the safest conclusions seem to be (a) that the *Second Treatise* contains no unequivocal doctrine on this point, and (b) that the passage in question was intended merely as a reiteration of his general doctrine of consent as the basis of lawful government, its apparent emphasis upon majority-right being the result of careless wording.

Fourth Argument. Political bodies, like all other bodies, must move in the direction in which they are impelled by the greater force, and in political bodies the greater force is the will of the majority.

This we may call the argument by analogy, and, like the argument from necessity, it has attracted many subsequent writers. What it amounts to is an insistence that majority-determination in political societies is natural, as it is natural for water to seek its level, for the heavier end of a seesaw to point downward, and (to follow the direction which Krabbe gives to the argument) for the human mind to make that decision to which it is drawn by the more weighty reasons. Its inarticulate major premise, when urged as an argument in favor of the right of the majority, is that the natural is not only natural but also right.

In Locke's hands the argument consists of the following steps: The motivating force of a community, in virtue of which alone it can act as a community, is the consent (past promise? present support?) of its individual members. Therefore the greater motivating force within it is the consent of the greater number of its individual members, and, at the limit, the consent of one half of those members plus one. If, then, we were to suppose it capable of responding to the force exerted by the smaller number of its individual members, we should have to suppose it different in this respect from all other bodies of which we possess knowledge.¹⁹

The argument is intensely interesting, if only as a reminder of the justice of Professor Catlin's acknowledgment of indebtedness to the contract theorists;²⁰ for here, in a paragraph, is the central conception of his

¹⁸viii. 99.

¹⁹viii. 96. The language in the text is a free but (the writer believes) faithful paraphrase.
²⁰Catlin, *Principles*, p. 169: "Men will become, not fugitive from society, but rebels against it, unless they are permitted to believe that they are acting freely in those things to which they attach most value. Restraint has no theoretical limit, but constraint can be imposed by no prudent statesman without a cautious calculation of his power to enforce it. *The theorists of the seventeenth and eighteenth centuries were, then, quite right in founding the contract upon the possibility of a rebellious attitude of will in every man. It is not possible to quit society; but it is very possible to be anti-social, and, still more, anti-national, anti-group, impious, unconventional!*" (italics mine).

admirable *Principles of Politics*. Those familiar with the refinement it has received in Professor Catlin's treatment will, therefore, see at once that it owes its plausibility (in Locke) to a carefully concealed *non sequitur*. The argument is unexceptionable insofar as it asserts that the motivating force of a community is consent—if we understand by consent present support rather than past commitment. It is unexceptionable, again, insofar as it asserts that the consent which motivates a community is a consent given (ultimately) by individuals. It is unexceptionable, finally, insofar as it asserts that more consent (for consent *is* additive) generates a greater motivating force than less consent. But it does not follow from these propositions that the consent which motivates a given society at any given moment is that of the greater number of its individual members, unless we are in a position to assume that the members are equally active in giving and withholding their consent, and unless, further, we are in a position to assume that the consents given and withheld are of equal *intensity*.²¹ No spectacle is more familiar in politics than that of a majority's abdication of responsibility for the making of decisions, unless it be that of the ease with which a smaller number of persons with intense convictions can make their consent count for more than that of a larger number of persons who, without joining the politically inactive majority, are yet not prepared, on the particular issue at stake, to offer resistance to the smaller number. The validity of Locke's conclusion rests, therefore, on two hidden premises (equal individual participation in the making of decisions, equal intensity of conviction on each issue to be decided) of whose necessity he reveals no sort of awareness; and we must conclude that that which he declares to be natural is natural only where certain indispensable conditions are satisfied.

If, *per impossibile*, we were to waive these objections, and grant for argument's sake that decisions by majority-vote are a natural phenomenon of community life, there would remain the difficulty that we cannot argue from the naturalness of the process by which the majority concludes the minority to a *majority-right* to conclude the minority—or, if the reader prefers, we cannot argue from the one to the other without first demonstrating our title to do so.

Fifth Argument. Individual consents being, in any case, the only rightful title to the exercise of power, the right of the majority flows as a matter of course from the fact that it can point to more consents than the minority.

This, in the opinion of the present writer, is what was really in Locke's mind as he wrote the paragraphs in which he attempts to defend the notion of majority-right, although, admittedly, some exegesis is needed

²¹Cf. *ibid.*, p. 266: "If all men were equal, or if government were only possible if all men believed themselves to have an equal share, then only majority government (over-riding the 'equal shares' of the minority as a practical expedient) would be feasible."

in order to establish its presence in those paragraphs. A man, the argument runs, necessarily surrenders some of his liberty when he subscribes to the compact which makes him a member of a commonwealth.²² The compact "would signify nothing, and be no compact if he be left free and under no other ties than he was in before in the state of Nature. . . . What new engagement [would there be] if he were no farther tied by any decrees of the society than *he himself thought* fit and did actually consent to?"²³ In consenting to be a member of a commonwealth, therefore, he consents beforehand to the acceptance of obligations which he does not himself approve, and it is right that he should do so because such an obligation is implicit in the nature of community life. And the character of the obligation, be it noted, is to be discovered in a situation in which the community, otherwise unanimous (as we are clearly asked to conceive it in the passage cited), is making a demand of the individual to which he is not prepared to give his consent. The compact would be all to the advantage of the individual, thus no compact, if it did not involve a duty on the part of the individual to fulfill the demand, thus also a right on the part of the community to make it, thus also a reciprocal obligation among all the individuals in the community to fulfill such a demand when it happens to be made of them. In other words, that community life to which all the individuals consent is possible on no other basis; and therefore, Locke is saying, "every man, by consenting with others to make one body politic under one government, puts himself under an obligation to every one of that society to submit to the determination of the majority."²⁴

Now the thing which Locke's critics have failed to perceive (thus overlooking the major emphasis of his defense of the majority-principle) is that, although he does not assist us with the deduction, the right of the majority to conclude the minority does follow as a matter of course from the right of the community to conclude the individual, *insofar as that right is defended in terms of the community's numerical superiority over the individual*. If one million persons have a right to conclude one because they are a million and he is only one, then there is no logical escape from the conclusion that five hundred thousand and one persons have a right to conclude five hundred thousand persons, and if one does not like the conclusion one must revise one's notions regarding the premise.

In a word, Locke had apprehended—on a half-conscious level—a tremendously important logical relation between the doctrine that the whole people have a right to have their way and the doctrine that the majority have a right to have their way. For either you mean, by the former doctrine, that the people must be really unanimous in order to

²²viii. 97.

²³*Ibid.* (italics mine).

²⁴*Ibid.*

exert their rightful authority, in which case there will be no one left upon whom it can be exerted, or you mean, as we have gone to some pains to show that Locke always did, that virtual unanimity is as good a title to authority as the people require, in which case you must be willing (as Locke was) to go ahead and defend—without any of those “subterfuges” to which Professor Friedrich refers—the majority-principle.

We conclude: (a) that the first, second, third, and fourth of these arguments in favor of majority-right may properly be dismissed as unworthy of serious consideration; (b) that, insofar as he intended to show with his fourth argument that his theory of majority-right is logically implied in his theory of popular sovereignty, he was on safe ground; and (c) that our evaluation of his theory of majority-right must be dictated by our evaluation of his theory of popular sovereignty.

CHAPTER VIII

POLITICAL EQUALITY

THE EXTENT of Locke's verbal commitment to the position of the majority-rule democrats of our own day with respect to political equality may be inferred from the passages analyzed in the preceding chapter. As we have pointed out in our Introduction, to claim power for the majority of the individual members of a society is, *ceteris paribus*, to declare those individual members political equals, since it is to claim for each one the power to cast the deciding vote in virtue of which, at the limit, the majority is a majority—or since (to put the same thing in another way) it is to claim for each, before every decision, an equal capacity to affect the result of the ballot.¹ And, since Locke certainly makes the former claim, he may fairly be said to have committed himself (verbally) to the latter.² Broadly speaking, therefore, we may say of his theory of equality that it is involved in his theory of the majority-principle, as, in the preceding chapter, we have shown his theory of the majority-principle to be involved in his theory of popular sovereignty; thus, also, that the three theories really constitute a *single* theory with three emphases which, for purposes of convenience, we have chosen to consider separately; thus, finally, that the three theories stand or fall together. This commentary upon Locke's theory of equality must, however, be read against the background of the following considerations:

(a) Because of the wide divergence between Locke's position and that of the majority-rule democrats of our own day with respect to the problem dealt with in the following chapter, his theory of equality admits of the possibility of vast political inequality over what (borrowing a phrase from the economists) we may call the "short period" (*i.e.*, the period between revolutions).

(b) It is a matter of some interest (in the light of what we have said in our Introduction regarding the advisability of keeping political problems separate in our minds from economic and social problems) that the equality Locke claims for the members of his society is *political* in the strictest sense of the word. Unlike many of the majority-rule democrats of our own day, and unlike Rousseau,³ Locke was not prepared to dictate

¹Cf. Aaron, *op. cit.*, p. 273: "For Locke . . . a political community is an organization of equals . . . into which men enter voluntarily in order to achieve together what they cannot achieve apart."

²Cf. Alfred Tuttle Williams, *The Concept of Equality in the Writings of Rousseau, Bentham and Kant* (New York: Teachers' College, Columbia University, 1907), p. 10: "The dictum that 'men are by nature free and equal,' which was accepted by the American Fathers as a self-evident proposition, may be traced immediately to Locke."

³Cf. Rousseau, *op. cit.*, ii. 11, where he argues that without equality "la liberté ne peut subsister," and adds, "Quant à la richesse, que nul citoyen ne soit assez opulent pour en pouvoir acheter un autre, et nul assez pauvre pour être contraint de se vendre."

to the members of his commonwealth the principles of economic distribution which they must adopt, or to insist that men must be equal in all things in order to enjoy an equal voice in the making of laws. He explains at one point in the *Second Treatise*:

Though I have said above "That all men by nature are equal," I cannot be supposed to understand all sorts of "equality." Age or virtue may give men a just precedency. Excellency of parts and merit may place others above the common level. Birth may subject some, and alliance or benefits others, to pay an observance to those to whom Nature, gratitude, or other respects, may have made it due; and yet all this consists with . . . that equal right that every man hath to his natural freedom, without being subjected to the will or authority of any other man.⁴

(c) While lunatics, idiots, children, and (temporary) madmen are the only classes which he expressly excludes from the (equal) rights which attach to membership in his commonwealth,⁵ it seems highly improbable that Locke was thinking in terms of extending those rights to women. Officially, his doctrine is that "we are born free [= equally free = equal] as we are born rational,"⁶ a proposition of which much might be made in connection with a determined effort to enlist his support for the movement for woman suffrage; and the same thing may be said of his vigorous denunciation of Filmer for having overlooked the claims of mothers when he sought to rest the case for monarchy on the rights attaching to fatherhood.⁷ But the following passage suggests that Locke's notions on the position of women were those of his age, thus that the "people" (thus also the majority) for whom he claimed power was a

⁴vi. 54.

⁵vi. 60. Cf. Wilson, *op. cit.*, p. 120: "We must not forget . . . that neither Locke nor his follower Jefferson were democrats in the modern sense of the word, for neither believed in either universal or manhood suffrage." Cf. MacIver, *Leviathan*, p. 92: "The leaders of the [American] Revolution accepted the principle that the people were the locus of sovereignty, but the people were conceived in the Lockian sense. They were the substantial folk as distinguished from the rabble" (italics mine). Cf. Lamprecht, *op. cit.*, p. 140 n.: "To what extent Locke would wish to give political power to all classes of the population is uncertain. Even the Republicans like Milton and Harrington opposed universal suffrage, and would grant the ballot only to the competent or land-owning classes. . . . Whether Locke followed these predecessors . . . is difficult to determine. His discussion of majority rule and the consent of the governed seems to point to a more broadly democratic point of view; but if the general assumptions of his generation are considered, his failure to state explicitly that he favored universally shared political power can almost [!] be interpreted as satisfaction with the quite limited democracy of the English constitution in his day" (italics mine). Professor Lamprecht's admirable scholarly caution makes it difficult to say whether or not he would take issue with the point made in the text, where we are concerned less with what Locke thought in his heart of hearts (interesting as that would be to know) than with what Locke said in the *Second Treatise*. If Lamprecht had said that the discussion of majority-rule and the consent of the governed actually points to a more broadly democratic point of view (instead of only seeming to), or if he had said that we are entitled to attribute to Locke the general assumptions of his generation insofar as he does not expressly dissociate himself from them (instead of "almost"), we might safely observe that the latter point is doubtful and that, in any case, Locke is explicit about majority-rule and the consent of the governed (as Professor Lamprecht almost admits) and thus stands committed to that which (manhood suffrage) is implied in his treatment of them. Not, to be sure, manhood suffrage in elections held at regular intervals, but an equal right in every man to consent or refuse to form a part of a contemplated revolutionary majority. As for suffrage in parliamentary elections, where a majority of the society has decreed them, we have pointed out in the text that Locke's principles admit of political inequality in the short period. For the rest, men have been hanged for less explicit pronouncements upon the subject of political equality than the following words, hidden in Locke's account of the state of nature (ii. 4): "There . . . [is] nothing more evident than that creatures of the same species and rank, promiscuously born to all the same advantages of Nature, and the use of the same faculties, should also be equal one amongst another, without subordination or subjection, unless the lord and master of them all should, by any manifest declaration of his will, set one above another, and confer on him . . . an undoubted right to dominion and sovereignty" (italics mine). Note the final word of the quotation, and cf. Lamprecht's statement ("Hobbes and Hobbism," *loc. cit.*) that Locke could compose an entire treatise on government without mentioning it.

⁶vi. 61. Cf. vi. 59, where he directs attention to the "supposition" in English law that rationality begins at the age of twenty-one, and offers no objection.

⁷vi. 53.

more restricted group than that which figures in the thinking of many more recent majority-rule democrats:

The husband and wife, though they have but one common concern, yet having different understandings, will unavoidably sometimes have different wills too. It therefore being necessary that the last determination (*i.e.*, the rule) should be placed somewhere, it naturally falls to the man's share as the abler and stronger.⁸

(d) Locke was apparently no more aware than the majority-rule democrats of our day of the considerations which make it necessary for *us* to write the reservation *ceteris paribus* into the proposition that the making of political decisions by majority-vote is compatible with (even formal) political equality. It is easy to see—once the problem has forced itself upon one's mind—that, in (*e.g.*) a group in which a "crystallized" majority (made up of persons who, whether out of conviction or out of self-interest or, what is perhaps more usual, a little of each, vote together on all issues) has arrogated to itself the function of making group decisions, a group in which the member of the minority knows, before deliberation takes place, that he is *not* in position to affect the result of the ballot, compliance with the majority-principle entails, for the minority, any degree of political subjection which the majority cares to impose upon them.⁹ It is easy to see, again, that if with the passing of time the crystallized majority learns (as modern political parties have learned) to entrust to a majority of its own members the power to conclude the minority of its own members, fidelity to the majority-principle can come to involve political subjection for the *majority* of the members of the wider group.¹⁰ It was this order of considerations which led Starosolskyj to limit his argument for the majority-principle to situations characterized by what he calls "indeterminacy of the relations of subordination and superordination,"¹¹ and which led Rousseau (to whom Starosolskyj does not express his indebtedness) to place so much emphasis upon (a) the prohibition of "partial" organizations within the political society,¹² and (b) the impossibility of eliciting a "general will" where many votes are cast by persons who place self-interest before the general interest.¹³ Locke, we repeat, saw nothing of all this—a failure which is, in this writer's opinion, intimately related to the vagueness of his statements regarding the character of that "public good" to the promotion of which he represents his political society as dedicated. Here, as elsewhere, his central difficulty is the cavalier unconcern with which he (by implication) extends to existing commonwealths propositions which

⁸vii. 82.

⁹Cf. Jellinek, *op. cit.*, p. 41.

¹⁰Indeed, for all the members of the group except the two members who constitute a majority of the triad in which, if such a process were continued indefinitely, decision-making power would finally rest. The writer is indebted for this suggestion to Professor John A. Fairlie.

¹¹Cf. Starosolskyj, *op. cit.*, p. 65, p. 89.

¹²Rousseau, *op. cit.*, ii. 3.

¹³*Ibid.*

(as he should have seen) apply only to situations in which the phrase "the public good" can be filled up with meaning.

(e) While the existence of a public good which men are prepared to place above their selfish interests is a *necessary* condition for the compatibility of majority-decisions and political equality (*i.e.*, where no such good exists there seems to be no reason to expect for the minority any result other than political subjection), it must be noticed that, conceptually, the notion of a public good which is both public and *good* is not easy to reconcile with that of political equality. If, that is to say, we insist (with Locke at his best) that claims to rights must be granted or denied according as the rights claimed are or are not compatible with the public good, then we are logically committed either to the view that equal political rights are appropriate only to those situations in which men possess equal capacity and equal willingness to use their power (to affect decisions) in the general interest, or to the admission that Locke's political system presupposes not merely the existence of a public good, but the existence of a public good of a very special kind—*i.e.*, one which *by definition* ceases to be good unless achieved upon a cooperative and egalitarian basis. That it is such a good which the majority-rule democrats have in mind when they condemn as incompatible with the general interest any principle other than that of equality and decisions by majority-vote is a thing which becomes increasingly evident to the student of their thought, but one which none of them (except possibly Marx) has defined with any degree of precision.¹⁴

¹⁴It is interesting to note that this implication concerning the special nature of the public good in a democracy did not entirely escape notice in the ancient world. The Old Oligarch, in his ironic defence of the Athenian polity, argues that rule by the people must be considered as a good *per se*, for one is, he says, obliged to concede that the government best for the state would be a government administered by the most capable men and would thus necessarily deprive the many of participation in the making of decisions (Pseudo-Xenophon, *Constitution of Athens*, i. 8-9).

CHAPTER IX

THE PROBLEM OF POPULAR CONSULTATION

WE HAVE SAID that Locke's solution for the basic problems of politics is at all points *save one* that of the majority-rule democrats. The exception is to be found in those of his opinions which relate to what we are today accustomed to call the problem of popular consultation; and the position is, briefly, that he virtually ignores the necessity (an apparently inescapable corollary of his doctrine regarding popular sovereignty and his doctrine regarding majority-decisions) for political *machinery* by means of which the popular (or majority) will may express itself. In that section of his book which comes most readily to mind in this connection, we find Locke arguing, *in effect*, as follows:

I have already demonstrated that the only lawful title to the exercise of political power is popular consent. I have already demonstrated, too, that the majority of the people have a right to speak, in this matter of consent, for the whole people. I have, in fact, gone so far as to argue that it is unnatural, thus wrong, for the body politic to move in any direction except that in which it is carried by the greater (=the majority's) consent. Now, what does this mean with regard to the day-to-day conduct of the affairs of a political society? Simply this: that any scheme for making and enforcing laws whose defenders can point to authorization by a popular majority at some time in the past is the right scheme for the political society in question until it is altered by the mandate of a popular majority. That is, the majority, at any moment when it is active, may make what arrangements it pleases for the future governance of its society; and those arrangements then possess the highest sanction which can be claimed for a scheme of government.

The above, it is suggested, is not an unfair statement (for all that it says nothing of natural rights and impartial judges) of the implications of the majoritarian *défi* which Locke wrote into his chapter "Of the Forms of a Commonwealth."

The majority . . . may . . . [make] laws for the community from time to time, and . . . [execute] those laws by officers of their own appointing, and then the form of the government is a perfect democracy; or else may put the power of making laws into the hands of a few select men, and their heirs or successors, and then it is an oligarchy; or else into the hands of one man, and then it is a monarchy. . . . And so accordingly of these make compounded and mixed forms of government, as they think good.¹

The majority may, if it likes, set up an *hereditary* monarchy, and name the period for which it is to continue in the exercise of legislative power! The majority may, if it chooses, act to prevent the exercise of power by future majorities!²

¹x. 132 (italics mine).

²*Ibid.* Cf. Carpenter, *op. cit.*, p. 103: "[The sovereignty of the community in Locke's political philosophy] is compatible with almost any variety of institutions, so long as it is recognized that the rulers are the trustees of the people who delegate their power to them."

How very different from this is the attitude of the majority-rule democrats of our day will be evident to the most casual student of their writings. J. Allen Smith, in his vigorous indictment of the government of the United States, is not really raising the question, Can (*e.g.*) the supporters of judicial review point to that occasion, in American history, when the majority of the American people expressed a preference for that method of constitutional interpretation?—despite his manifest conviction that the constitution was written (and, in a manner of speaking, imposed upon the American people) by a minority of property owners. Smith's real grievance, throughout, is against those aspects of the constitution which, on the one hand, make it difficult for *present* majorities to express their will, and, on the other hand, restrict their power to make that will effective. Any constitutional device which can be shown to have either of these effects is objectionable to him, and for that reason. Herman Finer's *Theory and Practice of Modern Government*, again, although avowedly an *apologia* for the majority-rule emphases of the British constitution, is by no means a demonstration that British government is (in some sense in which American, French, and German government are not) the *handiwork* of a popular majority, but rather that in Great Britain there exists from *moment to moment* (as in the United States, France, and Germany there does not) a presumption that what government does is done with the *approval* of a popular majority.³

Now it is a matter of some interest (as Professor Friedrich⁴ and others, who would like to charge the majority-rule democrats with responsibility for the Hitler régime in Germany, are fond of pointing out) that the former attitude (*i.e.*, Locke's) is apparently *more* consistent with the plea for the lodgment of unrestricted political power in the hands of popular majorities than the latter attitude (*i.e.*, that of Smith and Finer). How, it seems natural to inquire, can we speak of an unlimited right in the majority to make decisions binding upon the minority if, in the next breath, we are to demand that it respect the right of tomorrow's majority and next year's? If what the majority decrees is right because the majority decrees it, why should not this be equally true of what the majority decrees regarding the future governance of the society? And if the majority's decrees regarding the future governance of the society are *not* equally sacred with its other decrees, if there is some better method by which we can arrive at decisions regarding governmental forms, why not employ that same method for all other decisions? Locke, on such a showing, is merely facing the unavoidable implications

³Although Professor Finer, in a conversation with the writer in the Spring of 1938, expressed strong opposition to the notion of setting up in Great Britain any machinery for popular recall of governments.

⁴Friedrich, "One Majority Against Another," *passim*.

of the assertions which we have examined in our chapter on the right of the majority.

The consistency of such a view with the notion of majority-right is, however, apparent only; and Locke cannot be too severely condemned for having stumbled so blindly into a trap which his good sense (to say nothing of his democratic instincts) should have enabled him to avoid. The following considerations seem worth urging in this connection:

(a) To assert, or prove, that (to use Locke's own phrase) the majority have a right to conclude the rest, is merely to assert (or prove) that when—in a situation where sovereignty is understood to inhere in the people—a majority favors one policy and a minority another, the latter should accommodate itself to the former. To seek to read out of the proposition the implication that today's majority may by fiat suppress the right upon which its own decrees depend for what validity they possess is to ignore the fact that the proposition as stated attributes to the majority a *continuous* right, and that the implication in question can be extracted from it only by ignoring a part of its clear signification. If, again, the proposition "the majority have a right to conclude the rest" implies that the majority have a right to withdraw the right of the majority, then it implies its own contradictory, is not a valid proposition, and had best be abandoned as a criterion of political right. If, again, the proposition that the majority have a right to conclude the rest can be made to mean that the majority have a right to set up an hereditary monarchy (or any other kind!), it implies that the majority have a right to suspend that right of the whole people from which (in Locke's hands) its own right derives!

(b) To suppose that the right of the majority includes the right to suspend majority-rule is to take for granted the proposition that the possessor of a right has, as a matter of course, the right to bestow it elsewhere. Now, while there are undoubtedly *legal* rights of this character (*e.g.*, the ownership of some forms of property), it is by no means clear that we can conceive of a moral right of this character, since to assert such a thing with respect to a moral right is to forget the axiom, to which we have often alluded in the foregoing pages, that A's right is merely B's duty regarded from another point of view. The right of the majority to conclude the minority, that is to say, is (at most) merely the correlate of the minority's duty to be concluded by the majority; and while it may seem easy to argue from the majority's right to conclude the minority to its right to bestow that right elsewhere, the conclusion can be accepted only if it be shown that the minority has a duty to be concluded by those upon whom the majority bestows the right. Locke was, therefore, quite right in making of his defense of the majority-principle an attempted demonstration that the minority ought to obey the majority;

but for that reason he should have seen that the arguments he employs in that demonstration in fact exclude a duty of obedience to any decrees *save* those of the majority (or its indisputable agent).

(c) While Locke may properly be chided for his failure to see that his theory of governmental forms was inconsistent with his statement of the majority-principle, it is only fair to notice that that failure is intimately related to other weaknesses in his political theory. As we have intimated elsewhere, many of Locke's difficulties flow from his infidelity to the axiom (of which he has shown, at times, a clear grasp) that rights lapse when the person or persons in whom they inhere fail to discharge the duties which attach to them.⁵ Locke's difficulties, that is to say, often flow from his initial error of asking *what persons* have the right of making laws—a question which leads easily to the further question, Does the majority have that right? This is the question to which his majority-principle is, clearly, an answer; and, having once received it as a proper question (*i.e.*, not a *question mal posée*), having once assumed the responsibility of answering it in the affirmative without first criticizing it, he has put by the controls which might have saved him from the blunder to which we direct attention in the present chapter. If he had, *ab initio*, clung fast to the notion that the right of the majority is a function of its duties, as on his own principles he should have, he would have recognized the absurdity of the doctrine that the right of the majority to make decisions for the society is valid even at the moment when it is abdicating its *duties* by transferring decision-making power to other persons.

Our criticism of this branch of Locke's theory is, then, that having overlooked the *inherent* limitations upon the power of the majority involved in the notion of majority-right, he permitted himself to neglect the difficult question of how to make law and government continuously responsible to the will of the majority. We say "neglect" (as above, we have said "almost completely ignored") because that right of revolution which, under the compact, vests continuously in the majority, is clearly an attempt—a tardy and unsuccessful attempt—to deal with the difficulty here under consideration.

Now there are two possible interpretations of what Locke says about the right of revolution. Those who see a kind of *contract* in the relation between people and government in Locke's system are apparently committed to the view that the right of revolution can be exercised only when the government has violated the agreement between itself and the majority from which it received its grant of legislative and executive

⁵As others flow from the fact that he never made up his mind whether government by consent means government by *previous* popular authorization or government with continuous popular approval—a confusion which reveals itself even in his initial discussion of the law of nature. In order to avoid it he would have needed to work out a formula including *both* the fifth and sixth theses.

power—*i.e.*, that today's majority can regard itself as free to dissolve the government established by yesterday's majority only when that government has *really failed* to carry out the intentions of yesterday's majority. That interpretation has the advantage of reconciling the right of revolution with the position enunciated in the passage quoted at the beginning of the present chapter and (while we have already stated at some length our reasons for repudiating it) therefore it should not be overlooked in the present connection. Obviously, however, it accomplishes the reconciliation only at the cost of involving Locke still more deeply in the difficulty elaborated in the above paragraphs, namely, that of using the doctrine of majority-rule to legitimate, on occasion, the exercise of political power by a minority.

On the second interpretation, our own, Locke intended the majority to exercise its right of revolution at its own discretion, intended that the government of his political society *should* be continuously responsive to the will of the majority, intended the chapter "Of the Forms of a Commonwealth" to be read against the background of the dictum, "the legislative being only a fiduciary power to act for certain ends, there remains still in the people [thus in the majority] a *supreme* power to remove or alter the legislative,"⁶ and supposed that an understanding to the effect that the majority possesses such a right of revolution would be an adequate guarantee that government *will* be subservient to the majority-will.

Since it seems improbable that Locke was thinking here in any terms so modern as Professor Friedrich's "law of anticipated reactions,"⁷ in terms, that is to say, of a more or less automatic adjustment of the governmental act to the popular will brought about by the government's concern to avoid a revolution, he must have supposed (1) that independently of institutional midwifery of any kind, there will at all moments exist such a thing as a majority-will with which governmental law and policy can be made to coincide, (2) that the majority will in fact revolt when the governmental act does not coincide with its will, and (3) that revolutionary movements enjoying majority support can be counted upon to succeed.

Now all three of these propositions call for acts of faith of which few students of the history of democratic government during the past two centuries will find themselves capable. Because they do not believe that revolutionary movements enjoying popular support necessarily succeed, the majority-rule democrats of our day insist upon institutions calculated to avoid the necessity for making them (periodic elections, prompt removal of legislators and executive officials unable to elicit votes

⁶xiii. 149 (*italics mine*).

⁷Cf. Friedrich, *Constitutional Government and Politics*, p. 16. But cf. xiv. 168: "This [majority dissatisfaction with the government] the executive power, or wise princes, never need come in the danger of; and it is the thing of all others they have most need to avoid, as, of all others, the most perilous."

of confidence in those elections, *etc.*, which secure the same results by "peaceful" means), and institutions calculated to discourage governments from creating situations in which a revolution could not succeed (small standing armies, subservience of military to civil officials, *etc.*). Because they do not believe that the majority can be counted on to rebel when it finds its will thwarted, they attach all the more importance to institutions calculated to make the majority-will, as expressed in elections, equally effective with the majority-will as expressed through a successful revolution. And because they do not believe that the people can be counted upon to produce a majority-will except where certain conditions are satisfied, they insist upon institutions calculated to facilitate the emergence of such a will (popular education, ventilation of public issues before the widest possible audience and with fullest guarantees that all points of view will find expression, such freedom of organization for political parties as will assure a maximum of competition between them for majority support, *etc.*). In short, they restate Locke's right of revolution in terms of a popular right to be consulted about governmental affairs at regular intervals (the proper length of the intervals being a matter about which there is much difference of opinion among them), and to be consulted in such a way as to marshal a well-informed majority behind *some* policy whose proponents have been obliged to defend it against vigorous criticism. On either showing, therefore, Locke's treatment of the right of revolution is a fatal weakness in his theory.

It is interesting to notice that these three propositions about majorities (of which we have not intended, thus far, to say more than that they are *logically* involved in his theory) are things which Locke actually believed at the time he wrote the *Second Treatise*: "Nor let any one think," he says in defending the right of revolution, "this lays a perpetual foundation for disorder; for this operates not till the inconvenience is so great that the majority feel it, and are weary of it, and find a necessity to have it amended";⁸ *i.e.*, when the inconvenience *is* great, a majority opinion to that effect spontaneously takes shape. Nor does the inconvenience need to be the present inconvenience of the members of the majority themselves; they are alert to abuses suffered by minorities, where these presage future dangers for the society as a whole, and they may be counted upon to rebel when such abuses occur!

If [the] illegal acts have extended to the majority of the people, or if the mischief and oppression has light only on some few, but in such cases as the precedent and consequences seem to threaten all, and they are persuaded in their consciences that their laws, and with them, their estates, liberties, and lives are in danger, and perhaps their religion too, how they will be hindered from resisting illegal force used against them I cannot tell.⁹

⁸xiv. 168.

⁹xviii. 209.

History shows, finally, that their resistance will be successful:

The people generally ill treated, and contrary to right, will be ready upon any occasion to ease themselves of a burden that sits heavy upon them. They will wish and seek for the opportunity, which in the change, weakness, and accidents of human affairs, *seldom delays long to offer itself*. He must have lived but a little while in the world, who has not seen examples of this in his time; and he must have read very little who cannot produce examples of it in all sorts of governments in the world.¹⁰

Small wonder, then, that Locke felt himself under no obligation to work out for his readers techniques for forming and laying bare the will of the majority.¹¹ They are not needed!

Thomas Hill Green, to whose discussion of Locke we have already had occasion to refer, brings against Locke's right of revolution an objection which, though of an essentially different character from those urged here, nevertheless adds further weight to our conclusion that Locke should have given attention to the problem of implementing the right with appropriate institutions. How, he demands of Locke, except in such a special situation as that which obtains in a Swiss canton, is anyone ever to be sure that a successful revolution has not had the effect of removing a government satisfactory to the majority?

Any sectary or revolutionary may plead that he has the sovereign people on his side. If he fails, it is not certain that he has them not on his side; for it may be that, though he has the majority of the society on his side, yet the society has allowed the growth within it of a power which prevents it from giving effect to its will. On the other hand, if the revolution succeeds, it is not certain that it had the majority on its side when it began, though the majority may have come to acquiesce in the result.¹²

¹⁰xix. 224 (italics mine).

¹¹Admirers of Locke may well protest that this is unfair, since it does not take account of such brilliant insights as the following: (a) "The people having reserved to themselves the choice of their representatives as the fence to their properties, could do it for no other end but that they might always be *freely* chosen, and so chosen, *freely act and advise as the necessity of the commonwealth and the public good should, upon examination and mature debate, be judged to require*. This, those who give their votes before they hear the debate, and have weighed the reasons on all sides, are not capable of doing" (xix. 222, italics mine). (b) "Whenever the people shall choose their representatives upon just and undeniably equal measures, . . . it cannot be doubted to be the will and act of the society, whoever permitted or proposed to them to do so" (xiii. 158)—wherefore the king may without legal authorization reapportion seats in parliament upon a basis of "true reason" (*ibid.*). (c) "It is a mistake to think that the supreme or legislative power of any commonwealth can do what it will, and dispose of the estates of the subject arbitrarily, or take any part of them at pleasure. This is not much to be feared in governments where the legislative consists wholly or in part in assemblies which are variable, whose members upon the dissolution of the assembly are subjects under the common laws of their country, equally with the rest" (xi. 138). (d) "In well-ordered commonwealths, where the good of the whole is so considered as it ought, the legislative power is put into the hands of divers persons who, duly assembled, have by themselves, or jointly with others, a power to make laws, which when they have done, being separated again, they are themselves subject to the laws they have made; which is a new and near tie upon them to take care that they make them for the public good" (xii. 143). Of these, (c) and (d) clearly imply that an institutional device calculated to prevent "particular" legislation is a good thing whether the majority have ordered it or not; (a) clearly recognizes the need for free and full discussion in the elaboration of governmental policy; and (b) appears in the course of an argument which clearly takes for granted the desirability of representation apportioned to population. But the reference of (a) is to the legislative, not the populace, (b) is followed by the reservation that the reapportionment must be suitable to the "original frame of the government" (i.e., the intentions of that majority which set it up), and (c) and (d) do not really face the institutional problem to which they are directed.

¹²Green, *op. cit.*, p. 77. Cf. xviii. 208: "It [is] . . . as impossible for one or a few oppressed men to disturb the government where the body of the people do not think themselves concerned in it, as for a raving madman or heady malcontent to overturn a well-settled state, the people being as little apt to follow the one as the other."

Green concludes that Locke should have abandoned his majoritarian doctrine altogether, and recognized that it is not majority support but "the function which it serves in maintaining those conditions of freedom which are conditions of the moral life" which gives a government its title to obedience;¹³ but the majority-rule democrat of our day can reply that in a nation in which, as is modern England, there exists a vigorous and healthy competition between freely organized political parties, an electoral system so devised as to justify a presumption that electoral majorities are popular majorities, and institutional guarantees that elections will be held at regular intervals, his criticism is beside the point. We do know, in such a background, what sectary has the majority of the people on his side; and the logical corollary of Locke's doctrine of majority-rule is a demand for an institutional context in which the people are as a matter of course invited, from time to time, to express (by majority-vote) their preferences regarding future government policy and personnel.

¹³*Ibid.*, p. 78.

CHAPTER X

THE LATENT PREMISE

Quand une société ou sa majorité veut une chose, elle est juste. Celui qui s'y oppose, qui appelle la vengeance sur la nation, est un monstre. L'ordre se trouve toujours dans l'accord de la majorité. *La minorité est toujours coupable, je le répète, eût-elle raison moralement; il ne faut que du sens commun pour sentir cette vérité là.*¹

THE MAJOR CONCLUSION which the writer would like to rest upon the evidence considered in the present study is that the above lines might well have been written by someone who had taken the John Locke of the *Second Treatise* as his mentor in political philosophy. The attitude which they express towards majority-rule is that of the *Second Treatise*, and the prevailing impression to the contrary must be set down as an illustration of what happens when scholars abdicate responsibility for reading the books which they criticize. Locke can, to be sure, be quoted as saying that "where the body of the people, *or any single man*, are deprived of their right, or are under the exercise of a power without right, . . . they have a liberty to appeal to Heaven whenever they judge the cause of sufficient moment,"² and we have so quoted him. He can be quoted (and has been quoted) as saying that the right to judge whether or not to appeal to Heaven is something which the individual cannot part with, since it is "out of a man's power so to submit himself to another [or others] as to give him a liberty to destroy him."³ But it is in this same passage that he says that the principle in question "operates not till the inconvenience be so great that the majority . . . find a necessity to have it amended"! And it is only a few pages later that he *defends* the people's (= the majority's) right of revolution in terms of the fact that "the examples of particular injustice or oppression of here and there an unfortunate man moves them not."⁴

¹Restif de la Bretonne, *ap. Saripolos, op. cit.*, p. 256. Cf. Story, *op. cit.*, I, pp. 220-221: "The truth is that the majority of every organized society have always claimed, and exercised the right to govern the whole of that society, in the manner pointed out by the fundamental laws, which from time to time have existed in such society. Every revolution, at least when not produced by positive force, has been founded upon the authority of such majority. And the right results from the very necessities of our nature; for universal consent can never be practically required or obtained. *The minority are bound, whether they have assented or not*; for the plain reason, that opposite wills in the same society, on the same subjects, cannot prevail at the same time; and, as society is instituted for the general safety and happiness, in a conflict of opinion *the majority must have a right to accomplish that object by the means which they deem adequate for the end*. The majority may, indeed, decide how far they will respect the rights or claims of the minority, and how far they will, from policy or principle, insist upon or absolve them from obedience. But this is a matter, on which they decide for themselves, according to their own notions of justice or convenience. In a general sense the will of the majority of the people is absolute and sovereign, limited only by their means and power to make their will effective." (italics mine). Story was not always willing to go so far with the majority-rule democrats. Cf. *ibid.*, I, pp. 372-373, 376, 393; II, p. 325.

²*Ibid.*, 168 (italics mine).

³*Ibid.*

⁴xix. 230. On Rousseau's showing, such injustice or oppression would terminate the compact.

How are we to explain to ourselves this man who tells us, in a single paragraph, that the individual has a right to appeal to Heaven when he judges the cause sufficient, and must not do so until the majority is ready to join him in that appeal? Did Locke really mean that the majority has a right to (*e.g.*) maintain in power a government which oppresses or treats unjustly the "rest"? Did he really believe that it is the fact of majority support which *makes* right in politics? The correct reply to these questions is: Obviously not; Locke could never have committed himself to the moral relativism implied in the proposition that majorities make right—as anyone can see from reading the first three pages of the *Second Treatise*. Here is a writer who believed, with a passion which has rarely been equalled in the history of political theory, not only in the moral law but also in the possibility of applying the moral law to the problems of politics!

What, then, is the key to the riddle of the *Second Treatise*? It is, in the opinion of the present writer, to be found in the fact that, while the proposition "right is that which the majority wills" is by no means identical with the proposition "the majority always wills that which is right," the two propositions nevertheless come to precisely the same thing when considered as first principles of politics—since it follows from both that a good political system is one which lodges ultimate power in the hands of the majority.

The first proposition is not identical with the second because, *when it stands by itself*, it does involve an uncompromising relativism about right and wrong (*i.e.*, it involves a theory regarding the nature of right), while the second, involving as it does merely a judgment regarding the quantitative relation between the wise and the just, on the one hand, and the foolish and the unjust on the other hand, can keep house quite comfortably with the belief that there are moral standards which do not in any sense depend for their validity upon acceptance by majorities. The second, in a word, is completely free of the suggestion that the majority will is right because it is the majority's.

But so also is the *first* proposition free of that suggestion when it is put forward as a corollary of the second—*i.e.*, when it is urged by a writer who can be shown to believe the second proposition and to believe in the existence of objective moral standards. For the writer who believes that there are objective moral standards and that the majority of each political society both accept and know how to apply these standards can say that what the majority wills is right without committing himself to the idea that what the minority wills is wrong *because* it is willed by a minority. He can, too, easily slip into the habit of asserting that what the majority wills is right without reminding his readers that he intends nothing more than a judgment regarding the moral capacity of majorities.

Now Locke, together, perhaps, with most of the majority-rule democrats, did believe (as we have seen in the opening sections of this chapter) in the existence of objective moral standards, and he did reveal, in several passages of the *Second Treatise*, a conviction that the majority of any commonwealth can be trusted, not only to arrive at and fight for and impose its will, but to arrive at and fight for and impose a *right* will. He never, to be sure, actually says that he believes this,⁵ but there are passages in the *Second Treatise* which are intelligible only on the hypothesis that he did.⁶ The king who violates the written law in obedience to the maxim *salus populi suprema lex*, "cannot miss the consent and approbation of the community."⁷ It is not true that the people are ignorant and perpetually discontented, their opinion "unsteady" and their humor "uncertain."⁸ The people are not to be blamed if they "have the sense of rational creatures."⁹ The people are not "void of reason and brutish."¹⁰ The people know when the treatment they are receiving is "contrary to right," and do not lack the courage to resist the government from which they receive such treatment.¹¹ The evidence is not conclusive, but it does suggest that Locke would have subscribed to the proposition that a "safe" majority of men (thus the "average" man) are rational and just.¹²

It is, in this background, instructive to ask oneself the following question: If Locke had written across the top of the first page of the *Second Treatise* the words, "All theoretical demonstrations included in the following argument are predicated upon the assumption that the chances are at least 50+ out of 100 that the average man is rational and just," would we (assuming the validity of the predication) need to withdraw any of the criticisms which we have brought against Locke's political system? The correct answer is, in this writer's opinion, that most of the difficulties to which we have directed attention above would automatically disappear. The man who thinks he knows that the majority is rational and just can speak of the right of the majority and remain silent about the duties which attach to that right, because it follows as a matter of course from his major premise that the latter will be discharged. He can equate

⁵Cf. Locke, *ap.* Peter King King, *The Life and Letters of John Locke* (London: Bell & Daldy, 1864), p. 283: "Every man knows in those few cases which concern his own actions what is right and what is wrong."

⁶Cf. Lamprecht, *op. cit.*, p. 22: "[Locke] stood so close to the deists that he has sometimes been classified as one of their number." Cf. *ibid.*, pp. 28-29: "Their [the deists'] complacently optimistic estimate of man's naturally moral character is most extravagant Probably it was just the equivocations in the thought of the deists which were partly responsible for Locke's wavering and unsettled explanation of the foundations of the moral law."

⁷xiii. 158.

⁸xix. 223.

⁹xix. 230.

¹⁰xiv. 163.

¹¹xix. 224.

¹²Although he was quite capable of arguing the contrary when it served his purpose. Cf. ix. 123, where he is of the opinion that the greater part of men are "no strict observers of equity and justice." Cf. ix. 125, where he is of the opinion that men are "partial to themselves," thus not to be trusted as judges in their own cases. Cf. ix. 124: "Men, being biased by their interest, as well as ignorant for want of study [of the law of nature], . . . are not apt to allow of it as a law binding to them."

the good of each nation-state with the good of mankind, because the good of a nation-state controlled by the majority of its people would, on his showing, be the good of mankind. He can argue both for individual rights and for a right in the majority to define individual rights because the kind of majority he has in mind would never withdraw a right which the individual ought to have. He can overlook the necessity for careful definition of the public good, because on his showing the majority of each society will (if their institutions enable them to influence the course of events) prevent the "forces" of the society from being used for any purpose other than the promotion of the rational and just; and the individual's duty to obey the majority follows as a matter of course from his duty to promote the rational and just. The individual can, in his view, covenant to obey the majority without subjecting himself to the absolute and arbitrary authority of other persons, since the judgments of the majority are those of reason and justice.¹³ In short, Locke's doctrine of majority-rule becomes a series of identical propositions the moment we attribute to it such a latent premise as the above, and, on any other premise, must be dismissed as highly extravagant ethical nonsense.¹⁴ And if this is true, then the issue posed by the *Second Treatise* is simply whether or not the figure 50+ in the above estimate of probability is or is not accurate, and, if it is inaccurate, in which direction? No one, probably, would insist upon the figure 100, and no one on the figure 0, and though the wise man would refuse to name a figure at all, it may well be that our views upon the vexed problem of majority-rule necessarily involve a (perhaps unconscious) judgment as to whether the correct figure is more or less than 50—as (*e.g.*) our selection of a wardrobe for a week-end in the country involves a (perhaps unconscious) judgment as to the probable behavior of the weather.

The capital weakness of Locke's *Second Treatise* is to be sought in its author's failure to assign to this central issue the prominence which it deserves, and to raise the question, How can we test the unconscious judgments regarding the incidence of rationality and justice in human nature which reveal themselves in our attitude towards the proposals of the majority-rule democrats, in order to free our thought from its

¹³Cf. John Locke, *Thoughts Concerning Education* (London: Printed for J. and R. Tonson, 1769), p. 61: "Though [reputation] be not the true principle and measure of virtue, . . . it is that which comes nearest to it."

¹⁴That is, unless one be willing to make this act of faith, one will be well advised to abandon the notion of a majority-right to conclude the minority. It is not enough to assert, with Croce (*Storia d'Italia dal 1871 al 1915* [Bari: Laterza & Figli, 1928], p. 9), that "non si è trovato finora altro modo di educare i popoli alla libertà, cioè di educarli senz' altro, che quello di concedere loro la libertà e di far che imparino con l'esperienza, e magari col fiaccarsi la testa." Croce cites Ferdinando Martini (*Due dell' Estrema—Il Guerrazzi e il Brofferio* [Firenze Le Monnier, 1920], p. ix) to the effect that the "moderates," *i.e.*, those who are unwilling to see peoples actually use the liberty which the democratic movement professes to offer them, are like a parent who, "regalato a' figlioli un tamburo, li ammonisce che si divertano ma non facciano rumore." The comparison is an amusing one; but peoples often get their hands on more dangerous playthings than drums, and unless there be a presumption that they will use them well, how are we to answer the man (*e.g.*, Jellinek) who thinks they will be better off without them?

dependence upon uncriticized generalizations founded upon our own limited experience as individuals? Whether or not a premise similar to Locke's *does* underlie the thought of more recent majority-rule democrats,¹⁵ and whether it remains, with them as with Locke, merely latent, are problems which must be postponed to a later phase of the investigation of which the study which we here conclude is but the first stage.

¹⁵Cf. F. J. C. Hearnshaw, *Democracy and the British Empire* (London: Constable & Co., 1920), p. 201: "The faith of a democrat [in our terminology, "majority-rule democrat"] requires him to believe that in the long run the majority of the people finds its way to the truth, and that in the long run it tries to do the right." Cf. Lerner, *op. cit.*, p. 107: "My own conviction [is] that the majority in a state represents a good bet in the long pull of history."

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THE FRENCH
IN THE MISSISSIPPI VALLEY
1740-1750

BY
NORMAN WARD CALDWELL

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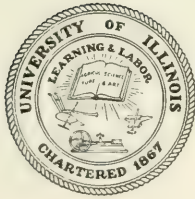
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THE FRENCH
IN THE MISSISSIPPI VALLEY
1740-1750

BY

NORMAN WARD CALDWELL

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PREFACE

THE DECADE 1740-1750 was one of supreme importance to the future of the French colonies in North America. It was in this period that war was resumed between England and France after a generation of peace. Though the struggle between the two great powers for the hegemony of North America was thus resumed, four years of fighting (1744-1748) resulted only in the re-establishment of the *status quo ante bellum*. The peace of Aix-la-Chapelle, then, merely called a temporary halt to the general struggle, and both sides began at once to prepare for the early reopening of hostilities.

It has constantly been the purpose of the writer to make a detailed study of this period with the view of determining the importance of the of the western regions in shaping the destiny of French power in America. Though secondary works have been carefully consulted, the study as presented is based almost entirely on source materials, many of which are now used for the first time. In the French documents, the expense accounts for the western posts (*Archives Nationales*, Series C¹¹A) have been searched carefully. This material, which has been consistently overlooked by scholars in the past, has given a wealth of detailed information on the political, social, and economic life of the times. Likewise the *Vaudreuil Manuscripts*, now used for the first time, have revealed important information on affairs in southern Louisiana. The use of the colonial records of South Carolina and Georgia as found in the *Public Record Office* has shed new light on the southeastern border region in this period.

This study was begun in 1935-1936 as a doctoral dissertation. At that time the writer limited the subject to the "upper country"—the *pays d'en haut* of the French. Additional research in 1938 and later has led to a broadening of the scope of the study so as to include more of affairs in the southern part of the country. For example, the pursuit of the roots of the Chickasaw problem has emphasized Franco-English relations in the southeastern region.

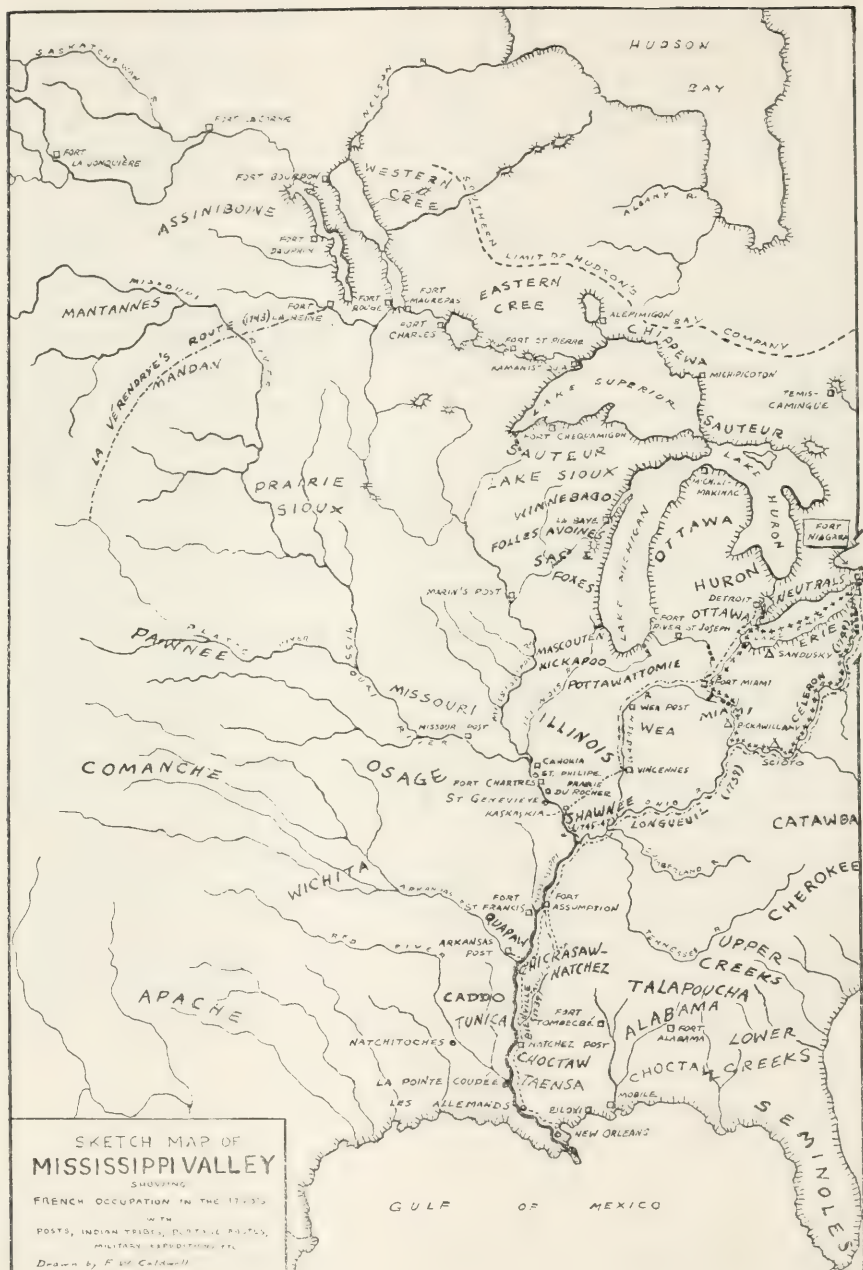
In the first chapter of this study, the governmental system of New France is described in order to introduce the reader to the nature of the colonial administration, the various problems presented, and the weaknesses inherent. Then follows a chapter on the population and industry of the western country, emphasizing the difficulties of settlement, the crude conditions of culture and industry, and the plans proposed for development. In the third chapter the fur trade is treated with particular reference to the western country. Here an attempt is made to give fullest details of the Anglo-French commercial rivalry and its bearing on political

conditions. Lack of space has necessitated the omission of one important phase of the subject of trade expansion in this period, namely, the story of the La Vérendryes and the extension of French power and trade into the country to the west of Lake Superior. Next, problems related to Indian affairs are discussed in detail, first in reference to the region about the Great Lakes and the activities of western Indians in King George's War, and then in reference to the Chickasaw problem in the south. The important subject of Anglo-French rivalry in the south during this period is summarized briefly, this having been treated fully in an article published elsewhere. Finally, the Indian uprising in the western country in 1747 is discussed with particular reference to consequent problems arising from the English penetration into the Ohio valley. The accompanying map is designed to familiarize the reader with place names, routes of travel, location of Indian tribes, etc. A selected bibliography is added which lists the most suitable materials on the period, without, however, making any claim to being exhaustive.

The indebtedness of the writer to those who have assisted in the preparation of this study is very great. Special acknowledgment is due to Professor T. C. Pease of the University of Illinois, who first suggested the subject and who made many suggestions and criticisms which have been very helpful. Professor F. C. Dietz, also of the University of Illinois, has been very kind in offering suggestions from time to time. Acknowledgment is also due to the librarians and staff members of the following libraries for their cooperation and fine spirit of helpfulness in making materials available: the Illinois Historical Survey, Urbana; the University of Illinois Library, Urbana; the Libraries of the University of Chicago; the Newberry Library, Chicago; and the Library of Congress, Washington, D. C. Nor would I forget Miss Marjorie Lee Cox, Miss Aileen Byrn, Miss Frances Smith, and others of the College of the Ozarks, along with my wife, Mrs. Amy Caldwell, all of whom have labored faithfully at those tasks incident to the preparation of the manuscript. The writer is alone responsible for all opinions expressed.

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CHAPTER I

POLITICAL AND FINANCIAL ADMINISTRATION OF NEW FRANCE

THE FRENCH COLONIES in America were governed from France through the Department of the Marine under the immediate control of the Minister of the Marine. This minister as a member of the Council of State was directly responsible to the king. In general, the plan was to govern Canada and Louisiana as if they were provinces of France. The two colonies were governed separately, but the fact that Canada was much older than Louisiana and much more populous meant that Louisiana was somewhat dependent on Canada.¹

Over each colony was placed a governor, appointed by the king, and another official of equal rank, called the intendant, who shared with the governor the management of the colony. The governor was usually a naval officer, and he was nominally in charge of the defense and general administration of the colony. He served at the pleasure of the king, and when relieved generally went back into the active service of the navy. His office was the same in Canada as in Louisiana. In Canada, however, he is more often designated by the appellation of *general* instead of *governor*. His salary in Canada, including his perquisites, amounted to about 20,000 livres, while in Louisiana he received considerably less.² The Canadian governor commonly resided at Quebec, while New Orleans was the home of the governor of Louisiana. When the governor travelled into any part of his colony, his power superseded that of the local authorities (the sub-governors). In other words, his power went with him as the king's court followed the king in medieval England.

The *intendant* shared with the governor the colonial administration. He was charged with independent jurisdiction over the police, finances, and justice of the colony, and he had an appeal to the minister in case of friction with the governor. The two officials served as checks upon each other, this being a contrivance to secure efficient administration in an autocratic and centralized system of government. Like the governor, the intendant was appointed by the king and served at his pleasure. His salary in Canada with his perquisites amounted to some 16,000 livres per year, while in Louisiana it was about 8,000 livres.³ In Canada both governor and intendant spent much of their time at Montreal on various

¹For example, the Canadian governor had control over licenses for the trade in the Illinois country. Louisiana, being comparatively weaker in military power, was also dependent on Canada in time of war, sometimes requesting Canadian troops for assistance. Then, too, in regard to Indian policy, the Canadian governor exerted a wide control at times.

²*Bordereau*, 1741, *Archives Nationales, Colonies*, C¹A, 114:381^v. The Louisiana governor received 12,000 livres according to the *Bordereau* of 1745. *Ibid.*, C¹A, 29:237-238.

³Canada, *Bordereau*, 1741, *Ibid.*, C¹A, 114:381^v; Louisiana, *Bordereau*, 1745, *Ibid.*, C¹A, 29:237-238.

business. When the intendant was absent from the country, or incapacitated, the deputy intendant at Montreal succeeded him.⁴ The intendant necessarily relied on his deputies for the discharge of many of his duties, especially in the case of expenditures, which were very largely made at Montreal.⁵

Under such a system we would expect friction to arise between the governor and intendant concerning the scope of their powers. From time to time the minister had to determine questions of that nature, such as the instance in 1746, when a controversy arose over which official had the exclusive right to issue orders to the officers of the king's ships. The minister ruled that this was the power of the governor alone, though it was expected that he would consult his colleague.⁶ Since the intendant controlled expenditures, friction often developed over such subjects as expense accounts when "moderated" by the intendant and also over issues from the king's stores.⁷

An outstanding example of friction between these two officials is found in the case involving the judicial powers of the intendant relative to the western posts. This controversy grew out of a suit brought by M. de Lorme, a Montreal merchant, against M. Dailleboust, another merchant of that city, to restrain Dailleboust from collecting a debt owed him by the Sieur de la Vérendrye, who was exploiting the trading posts in the far northwest. De Lorme pleaded that, having himself a debt of priority with M. de la Vérendrye, he was entitled to be paid first, and he asked that the trader's furs be seized at Mackinac for this purpose with an accompanying order to restrain the Sieur Dailleboust from making his collection. Now here was a fine point of constitutional law. The intendant, Hocquart, was supervisor of justice, and it would appear that the jurisdiction was his; but the governor had always exercised general jurisdiction over the posts, and hence had dispensed justice through the post commanders in questions regulating the *voyageurs* in the trade. An appeal was made to both officials, but when the governor, Beauharnois, failed to make a decision, the intendant, after studying the results of an arbitration committee appointed by the parties, issued an ordinance in favor of De Lorme, ordering collection to be made for him.⁸

⁴Varin to Minister, Quebec, May 27, 1740, *Ibid.*, C¹¹A, 74:192-196^v.

⁵Hocquart to Minister, Quebec, Oct. 14, 1742, *Ibid.*, C¹¹A, 78:27-34^v.

⁶Minister to Hocquart, Mar. 7, 1746, *Canadian Archives Reports*, 1899, Supplement, 155. The constant bickering and friction between the governor and the intendant was in keeping with the general condition existing among the officers of the entire bureaucracy, and has been aptly described by Madame Bégon in one of her charming letters to her son as "a terrible jealousy," which she says was as bad in France as in Canada. Madame Bégon to her son, Quebec, Feb. 3, 1750, in *Rapport de l'Archiviste*, 1934-1935, 83. (Cited henceforth as *Quebec Archives Reports*.)

⁷For an example of an appeal of the holder of an expense bill against the intendant's "moderation," though approved by the governor, see "Canada, Demandes Particulières, Feb. 1740," *Arch. Nat., Col.*, C¹¹A, 74:228. In Louisiana, Bienville and Salmon got into such a quarrel over store issues that Salmon asked to be recalled in 1742. Salmon to Minister, Feb. 13, 1742, *Ibid.*, C¹¹A, 27:91-92^v.

⁸See Hocquart's *Ordonnance*, in Burpee, *Journals and Letters of La Vérendrye and His Sons*, App., 515-520. Also in *Arch. Nat., Col.*, C¹¹E, 16:240-241^v. Charles, Marquis de Beau-

Beauharnois, incensed over this supposed usurpation of his authority, in a similar case, ordered the commandant at Michilimakinac not to obey Hocquart's order,⁹ thus coming to issue with the intendant. The case was then appealed to the minister. Hocquart claimed he was obliged to issue the *ordonnance* in order not to be accused of a denial of justice, and fully established his power to act, by asserting that since the case was one between Montreal merchants it did not concern the governor's jurisdiction in the west. He argued further that he also had the jurisdiction, since the principle that traders should bring their furs down to Montreal was involved. The post commanders might be granted the right to settle cases between *voyageurs*, but this was a different case. Furthermore, he contended the intendant had actual legal jurisdiction over the posts, through his power to appoint sub-delegates.¹⁰ Beauharnois, on the other hand, argued (from the custom) that the *voyageur* must be free in his post, and that the post commandant acting under the governor would do justice in cases arising between him and the merchants.¹¹ The case was finally dropped when Beauharnois had justice done.

Canada was divided into three chief administrative jurisdictions—Quebec, Montreal, and Three Rivers. The governor general and the intendant had their seats of authority at the city of Quebec, capital of the province of that name. Here, too, was the seat of the local jurisdiction of the city and the surrounding settlements. The jurisdiction of Quebec also extended in certain respects to the control of Isle Royale¹² and the eastern regions about the lower St. Lawrence. Next came the city of Montreal and its district, having a similar jurisdiction. At Montreal sat the governor of the district who stood second to the governor-general at Quebec, though his authority ceased when the governor-general entered the Montreal jurisdiction. A sub-delegate of the intendant, who was the chief commissary of the king's magazines there, was also stationed at Montreal. The Montreal jurisdiction included the city and the nearby settlements, and indirectly the several western posts, for these posts relied directly upon the Montreal commissary for their supplies, just as Isle Royale and the eastern posts were dependent upon Quebec.¹³ The commandants and troops, however, were directly under the governor general's control. Each of these districts had a military commander, called the lieutenant of the king in the case of Quebec, and major in the case of

harnois, governor-general of New France from 1726 to 1747, was born about 1670, and was trained for the navy. Returning to France in 1747, he became lieutenant-general of naval forces. He died in 1749. Gilles Hocquart was intendant of Canada from 1728 to 1748. He was noted for his energy and integrity.

⁹Beauharnois to Minister, Quebec, Oct. 7, 1740, *Ibid.*, C¹A, 74:36-39.

¹⁰Hocquart to Maurepas, Quebec, Sept. 27, 1741, Burpee, *op. cit.*, 524-530.

¹¹Beauharnois to Minister, Quebec, Oct. 7, 1740, *Arch. Nat., Col.*, C¹A, 74:36-39.

¹²Isle Royale had a council of its own, and was developing a somewhat separate status. For location of posts and settlements, see map, p. 8, above.

¹³Isle Royale also had an intendant of her own, who was subject to the intendant at Quebec. The policy of the government was that Canada should eventually supply the fortress there with most of its needs.

Montreal and Three Rivers. There were also judicial and police officials. Three Rivers had a similar organization and controlled the forts of Chambly and St. Frederic.

Louisiana was divided into nine military districts, but the three chief establishments—New Orleans, Mobile, and the Illinois—became the real centers of administration. Thus Mobile came to control the posts of the Alabama and Tombachbee, while the Illinois controlled the Arkansas post and the post at Natchitoches. New Orleans had the immediate jurisdiction of the posts at La Pointe Coupée and the Natchez. In the Illinois and at the Mobile post we find the evolution of a deputy intendant and sub-governor in progress. Each of these posts had a deputy of the *ordonnateur*,¹⁴ while the commandants of advanced rank acted as deputy governors.

The army was the chief arm of the governor for defense and maintenance of the administration. At times, too, he had ships at his command, especially in time of war when the king's ships were in colonial ports. Canada, however, had a few small ships of her own.¹⁵

The number of troops was not large. Of the regulars, or "troops of the Marine," there seem to have been fewer than 1,000 in 1749.¹⁶ Louisiana in 1744 had thirty companies on the rolls.¹⁷ Canada kept her troops stationed chiefly at Montreal and Quebec, Montreal alone having nineteen companies in the year 1741.¹⁸ The western posts rarely had more than small detachments of troops, excepting the Illinois which usually kept two companies.¹⁹

Officers were appointed by the king upon recommendation of the governors, who usually acted upon the testimonies of their officers, but solicitations of influential family members and others interested in a man's promotion, both in France and in Canada, figured largely. Promotions were not always regular and according to seniority and merit.²⁰

Each colony also had its militia organization, officered by men commissioned by the governor, and embracing all able-bodied men, but the

¹⁴In Louisiana the intendant was called the *ordonnateur*, or *commissaire-ordonnateur*.

¹⁵Shipbuilding was encouraged by the government at Quebec. Several small ships had been built there already, and Maurepas had three armed vessels laid down there during the decade under consideration. There seems to have been little or no private shipbuilding.

¹⁶This did not count the garrison at Isle Royale, which contained at least as many more men. In 1749, twenty-eight companies of 812 men made up all other Canadian regular troops. See King's Instructions to La Jonquière, 1749, *Arch. Nat., Col., B.*, 89:50^v-51. The same year La Galissonnière had recommended that the number be increased to 1,200 French and 200 Swiss. This was approved and officers from Canada were sent to France to take charge of recruiting. Minister to La Jonquière and Bigot, May, 1749, *Can. Arch. Rep.*, 1905, I, 117.

¹⁷*Bordereau*, 1744, *Arch. Nat., Col., C¹³A.*, 28:368^v-369. Louisiana got twenty-four new companies in 1750, but these were largely for replacements. Vaudreuil to Minister, Sept. 24, 1750, *Ibid.*, *C¹³A.*, 34:276-277. The *Memoir on Louisiana in 1746* gives the number of troops in the colony as 900. *Ibid.*, *C¹³A.*, 30:256-257. Each company regularly numbered fifty men.

¹⁸*Bordereau*, 1741, *Ibid.*, *C¹¹A.*, 114:383.

¹⁹*Petite Mémoire de Canada*, 1744, *Ibid.*, *C¹¹A.*, 78-319.

²⁰We even find an instance of a wife asking for the promotion of her husband. See Mme. Longueuil to Minister, Nov. 2, 1747, *Arch. Nat., Col., C¹¹A.*, 89:252-253. An important family in Canada such as that of the Sieur De La Ronde had great influence in obtaining favors of these and other kinds. See Denys de La Ronde to Minister, Quebec, Nov. 12, 1740, *Ibid.*, *C¹¹A.*, 74:216-217; La Jonquière to Minister, Quebec, Nov. 4, 1749, in *Wisconsin Historical Collections*, XVIII, 35-36.

militia on the whole was poorly equipped and trained. Beauharnois had adopted the practice of sending out an officer each year to cause the militia to take their drills.²¹ One of the chief difficulties was the obtaining of arms for the use of the troops. The king had recommended that arms be procured in Canada out of proceeds from the licenses of the fur trade, but this had not worked well. The governor reported that even had the money been at hand, no such quantity of guns could be supplied by the merchants.²² The king then undertook to supply guns, and by 1749 it was reported that 10,000 muskets had been provided. The number of the Canadian militia is given as 12,000.²³ Louisiana with a total population of only 8,000 must have had only a small number.

On the whole the morale and discipline of the troops were not good. The loss of Louisbourg to the English in 1745 was ascribed by many to the insubordination of the troops, while the so-called "Bad Bread Mutiny" in New Orleans at the same time indicated the state of affairs in Louisiana.²⁴ The prevailing system of quartering troops with the civilian population led to many irregularities, while soldiers stationed in small numbers at the distant posts, or assigned as laborers on projects such as the iron foundry at St. Maurice, were often tempted to desert and become *coureurs de bois* or other fugitives.²⁵ The number of desertions was constantly increasing, especially in the Illinois, where in the single year of 1742 it was reported that sixteen men had deserted from the two companies quartered there.²⁶ Ordinarily Canada required sixty men per year as replacements for vacancies in the ranks due largely to desertion.²⁷ At some of the establishments, however, better order prevailed, this being particularly true of Fort St. Frederic, which Peter Kalm visited in 1749, and where he tells us he found both order and contentment among the troops.²⁸

The government did much to eradicate the bad conditions existing among the armed forces. As a general policy, older men were placed in

²¹Memoir of the King to Beauharnois and Hocquart, Fontainebleau, Apr. 30, 1742, *Arch. Nat., Col.*, B, 74:503-511.

²²Beauharnois and Hocquart to Minister, Quebec, undated, *Ibid.*, C¹¹A, 81:34^v-36.

²³King's Instructions to La Jonquière, Versailles, 1749, *Ibid.*, B, 89:50^v-51.

²⁴See records of the trial of the mutineers, in Records of the Superior Council, *Louisiana Historical Quarterly*, XIV, 2, 261-267.

²⁵Beauharnois to Minister, Quebec, Oct. 6, 1740, *Arch. Nat., Col.*, C¹¹A, 74:30-33.

²⁶Bienville to Minister, New Orleans, Feb. 14, 1743, *Ibid.*, C¹²A, 28:34-34^v.

²⁷Memoir of the King to Beauharnois and Hocquart, Fontainebleau, Apr. 30, 1742, *Ibid.*, B, 74:503-511.

²⁸Kalm says of the soldiers there: "They get every day a pound and a half of wheat bread, which is almost more than they can eat. They likewise get pease, bacon, and salt meat in plenty . . . Each soldier got a new coat every two years; but annually, a waistcoat, cap, hat, breeches, cravat, two pair of stockings, two pair of shoes, and as much wood as he had occasion for in the winter. They likewise got five *sols* a piece every day; which is augmented to thirty *sols* when they have any particular labour for the King."—*Travels into North America*, III, 16-20. From the Louisiana *Bordereau* for 1745, we learn the following concerning the pay of troops: captains, 90 livres per month; lieutenants, 60 livres; ensigns, 40 livres; ensigns in second, 30 livres; sergeants, 16 livres; corporals, 6 livres, 15 sols; cadets, 12 livres, 15 sols; and the common soldiers, 4 livres, 10 sols. *Arch. Nat., Col.*, C¹²A, 29:240-241. Another authority gives the pay of the common soldier (1747) as 5 deniers, *per diem*, and that of ensigns as 10 écus (30 livres) per month. Captains were said to receive 100 livres per month. Lantinnac's testimony, *South Carolina Council Minutes*, Apr. 14, 1747, 83-84, *Public Record Office, Colonial Office*, 5, v. 453.

the garrisons, and after the expiration of their term of service, they were given land, tools, and livestock so that they might become permanent settlers in the vicinity of the fort.²⁹ Vaudreuil advocated shifting of post garrisons yearly, a policy which was approved in 1744, but the expense involved kept this from being done.³⁰ The same system was approved for Canada in 1750.³¹ An attempt was also made to remove irregularities in payment of soldiers and officers, especially at the more distant posts. Louisiana in 1746 was permitted to establish the practice of allowing officers to receive half of their pay in letters of exchange.³² In Canada, where the gratifications of officers at the posts usually depended upon the income of the posts from the fur trade, La Galissonnière pleaded for a system of regular pay to enable the officers to keep in better state. In 1740 bad conditions in the distribution of pay to both officers and men were disclosed in a controversy which arose between M. de Noyan, commandant at Detroit, and the office of the Montreal commissary.³³

The post commandant was a detached officer. For the more important posts, he usually held the rank of captain. In Louisiana the commandants of the Illinois and at Mobile were termed majors. This title was also set up at Detroit under the new system of sedentary command established there in 1749.

In one respect the powers of the post commandant differed in Louisiana from those of the Canadian officer—the Louisiana officer, with the exception of the Illinois commandant, had complete charge of the fur trade at his post. He issued the trading permits, regulated the transportation of goods, and so on. Indeed, he was often a trader himself. In Canada, the control of the trade was in the hands of the intendant at Quebec, officers usually being forbidden to trade.³⁴ The commandant also was in immediate control of the king's domain, of the king's magazines, and of the regulation of justice in such posts as were not provided with a deputy of the intendant. Officers at such commands as Detroit, Mobile, and the Illinois received gratifications up to 3,000 livres. Sometimes there were special gratifications up to 1,000 livres in addition to the regular pay.³⁵ In the western posts, this expense was usually paid out

²⁹Kalm, *op. cit.*, 16-20.

³⁰Minister to Vaudreuil, Versailles, Jan. 1, 1744, *Arch. Nat., Col., B.*, 78:3. Pierre François Rigaud de Cavagnol, Marquis de Vaudreuil (1698-1793), was governor of Three Rivers in 1733; becoming governor of Louisiana in 1743, he served there until 1753, when he became governor-general of all New France, holding this position until the end of the French Régime.

³¹King to La Jonquière, Apr. 11, 1744, *Can. Arch. Rep.*, 1905, 1, 131.

³²Minister to Vaudreuil, Versailles, Apr. 25, 1746, *Arch. Nat., Col., B.*, 83:10v.

³³La Galissonnière to Minister, Oct. 11, 1747, *Ibid.*, C¹A, 87:238. The regimental pay of officers did not depend upon fur trade revenues. The correspondence over this matter is printed in the Cadillac Papers, *Michigan Pioneer and Historical Collection*, 34, 165 ff. Delays in pay were common to soldiers on detached service at distant posts. One soldier is mentioned who had received no pay for three years.

³⁴It should be pointed out that some Canadian officers were traders through this period. La Vérendrye is an example. The power of the Canadian governor to issue trading permits for the Illinois posts should be noted as an exception to the general practice of post commanders controlling the trade in Louisiana.

³⁵Canada, *Bordereau*, 1741, *Arch. Nat., Col., C¹A*, 114:383v-384.

of revenues drawn from the fur trade. Some posts had also a second in command.³⁶ Other officials at the posts were the *aumônier*, or chaplain, the surgeon, the interpreter, the missionary, and the storekeeper, or *garde magasin* as he was called. Sometimes the king kept a smith also, but this right was often given to the missionary as his *ferme*. The tendency at the larger posts was to transform the *garde magasin* into a sub-delegate of the intendant, the post commander correspondingly becoming a deputy governor. In the Illinois and at Detroit this transformation had already taken place by 1750. At the former post, the office of *écrivain principal* had already been established and entrusted with legal jurisdiction in that country as well as some oversight of financial matters. At Detroit a sub-delegate of the intendant resided with similar powers.

To assist the governor and the intendant in the government of the colony, there had been established a council, composed of councilors drawn from the citizenry and appointed by the king. This council consisted of the governor, the intendant, who served as chief justice, the bishop (in Canada), the lieutenant of the king, the attorney general, the clerk (notary), and a number of councilors. There also sat with it or participated in its sessions at times, the sheriff and his deputies, different attorneys, such as attorneys for vacant estates, the agent for the Company of the Indies, the keeper of the king's warehouses, and sometimes sub-delegates of the intendant as well as post officers.³⁷ These men (the councilors) were on the civil list at small gratifications, all below 1,000 livres in the case of Canada.³⁸ In 1742, new officials, called assessors, were added to the councils, four to each council. They served as special judges in certain cases, and it was provided that they might vote in other decisions in case of a tie of votes.³⁹

The registration of edicts and ordinances of the king as well as those of the governor and intendant was the first duty of the council.⁴⁰ It also served in an ordinary advisory capacity to the heads of the administration. But its chief business was as a court of law, both in original and appellate jurisdiction, for the entire colony. It also registered contracts, wills, and

³⁶Minister to Beauharnois, Versailles, Apr. 30, 1743, *Ibid.*, B, 76:403v.

³⁷The following persons participated in the work of the Superior Council of Louisiana during April and May, 1748: Pierre Rigaud de Vaudreuil, Governor; Vincent D'Auberville, Intendant; Jean Baptiste Raguet, Acting Procureur General; Nicolas Chauvin de Lafrénière, Councillor; Louis Césaire Le Bretton, Councillor Assessor; Charles de la Lande d'Aprémont, Councillor Assessor; Jean François Huchet de Kernion, Councillor Assessor; Gilles Augustin Payen de Noyan, Lieutenant of the King; Nicolas Henry, Clerk and Notary; Austin Chantalon, Sheriff; Marin Le Normand, Deputy Sheriff; The Chevalier de Mambrede, Major of New Orleans; Jean Baptiste Prévost, Agent of the Company of the Indies; Jean Joseph Delfau de Pontalba, Commandant at La Pointe Coupée; Claude Trenaunay de Chanfret, Judge and Sub-delegate at La Pointe Coupée; Bernard Louis Petin, Notary at La Pointe Coupée; Pierre Olivier Devezin, Surveyor of the King's Highways; Nicolas Godefroy Barbin, Attorney of Vacant Estates; Jean Baptiste Gavic, Attorney. Rec. of the Sup. Coun., *La. Hist. Quart.*, XIX, 3, 751. For a complete list of members of the Canadian Council, see P. G. Roy, "Les Conseillers du Conseil Souverain de la Nouvelle France," *Trans. Roy. Soc. of Canada*, third ser., IX, 173-187.

³⁸*Bordereau*, 1741, *Arch. Nat., Col., C¹A*, 115:11v-12. Of course, these councilors, being legal professionists, were able to increase their incomes.

³⁹*Edits, Ordonnances*, I, 561-563.

⁴⁰*Ibid.*, 588.

other legal documents through its notary.⁴¹ Appeals from the decisions of the superior council could be made only to the king.⁴²

As a superior court of justice the council spent a great deal of its time in hearing cases both civil and criminal—cases on appeal as well as those of original jurisdiction. Under the direction of the intendant judges were sent into the distant settlements where they held court in the stead of the council. Appeals from the decisions of these judges returned to the council for final review. In no case was there trial by jury, but the judges alone decided the cases in accordance with the *coutume de Paris*.

Sometimes the intendant had to form special courts to hear cases of an unusual nature. Thus, in 1741, when a case in admiralty arose at New Orleans, M. Salmon, after consulting the attorney general on the subject, constituted himself into an admiralty court and heard the case.⁴³ The *seigneurs* also had once possessed the right to hold courts on their domains, though this right had been nominally abolished in 1693. For the convenience of the reader there is listed below an outline of the legal jurisdictions of Montreal with the officers and justices according to rank. The pay of judges, sheriffs, sergeants, etc., was based on the type of the case handled, the time spent, distances travelled, and so on.⁴⁴

We have referred above to the office of *écrivain principal* in the Illinois. Due to the great distance of this region from New Orleans, this office had been created, and an officer sent there "*en qualité de subdélégué de l'ordonnateur*." He had jurisdiction over any case arising in that country, but appeals from his decisions could be made to the council at

⁴¹For samples of various registrations made by the council, see *La. Hist. Quart.*, X, 2, etc.

⁴²The decrees of the council covered subjects all the way from ordinances against snow-balling of people on the streets of Montreal to an ordinance regulating the length of cord-wood. See Council Records in the various volumes of the *La. Hist. Quart.* and the *Edits, Ordonnances*. The records of the Quebec council are printed separately.

⁴³See *De Meyere v. Du Conge*, in *La. Hist. Quart.*, VII, 1, 1-19. Edmé Gatién Salmon was intendant of Louisiana, 1731-1743.

⁴⁴Outline of officials of justice and jurisdictions at Montreal:

I. Seigneurial justice (1648-1693; abolished Nov. 15, 1693. Some seigneurs about Montreal still exercised some judicial authority, however).

- a. Judges, judges of bailiwicks, lieutenants (civil and criminal).
- b. Secondary judges (usually used in absence of the regular judges, they being often garrison officers).
- c. Fiscal procureurs.
- d. Substitutes for fiscal procureurs.

- e. Notaries (regular).
- f. Special notaries or notarial agents.
- g. Huissiers and sergeants.
- h. Jailors and prison keepers.
- i. Assessors (advisors to judges).
- j. Interpreters.
- k. Tabellions and other notaries.

II. First royal justice, or *Sénéchaussée* (created Sept. 28, 1663). Composed of a civil and criminal judge, an attorney of the king, a greffier and royal notary, and a royal sergeant.

III. Second royal justice, or *Prévôté* (the council) (1693-1760). Composed of the lieutenant general of Montreal, the king's attorney, a greffier, four royal notaries, four huissiers, and four advocates. The complete list of officers attached to the council at Montreal was:

- a. Lieutenants, civil and criminal.
- b. Lieutenants in second.
- c. Special lieutenants to assist the above.
- d. The king's attorneys.
- e. Assistant attorneys.
- f. Greffiers for military courts.
- g. Greffiers and assistants.
- h. Huissiers of the king.

- i. Jailors and prison keepers.
- j. Assessors.
- k. Interpreters.
- l. Royal notaries.
- m. Special advocates.
- n. Commissaries.
- o. Deputy intendants and their notaries.
- p. *Maréchaussée* (*Prévost marshal's lieutenant*).

Massicote, E.-Z., "Tribunaux et Officiers de Justice . . ." *Trans. Roy. Soc. of Canada*, third ser., X, 273-303. For list of fees collected by these officers in the several different cases, see *Edits, Ordonnances*, I, 609-611.

New Orleans. This was the only definitely organized inferior jurisdiction in Louisiana, though a separate jurisdiction for the city of New Orleans was under consideration.⁴⁵ The *écrivain principal* was also a *functionnaire* over the king's stores at the Illinois, and the *garde magasin* logically succeeded him.⁴⁶ In trifling matters below the notice of the judges, the local priest or the commandant of the post usually brought about a settlement between the parties to the litigation.

In keeping with the times, the law was harsh. Imprisonment for debt was common,⁴⁷ and torture was used to extort confessions, especially in case of negroes.⁴⁸ Under the Black Code, the punishment of negroes was severe. A slave who struck a soldier in 1742 was condemned to be whipped every week day and on Sundays at a certain place in the city of New Orleans by the public executioner, to have his right ear cut off, and to carry a six-pound ball on his foot for the remainder of his days.⁴⁹ Slaves who were manumitted could be easily reduced to slavery if they failed to pay their debts.⁵⁰ Fines were eagerly laid upon offenders and collected with rigour. Justice was also expensive. Judge Breese cites a case tried in the Illinois in 1749 involving a suit for collection of a note of the value of 60 livres in which the costs of the suit amounted to the sum of 28 livres, 10 sols.⁵¹

There remains to be discussed the office of notary under the French colonial system. This official heard cases such as are now handled by our courts or judges, while at the same time he performed the duties of our notaries public, common magistrates, and justices of the peace. Notaries were of two kinds: *royal* and *seigneurial*. The tendency since 1669 had been to restrict the latter, for after that year all nominations of *seigneurial* notaries were made subject to the approval of the intendant.⁵² In the absence of the notary, his duties might be performed by the judge, the missionary, the military commandant, or even by the *garde magasin*.⁵³ In rank and dignity the notary stood next to the royal officers.⁵⁴

⁴⁵Memoir of the King to M. Michel, Versailles, Dec. 9, 1748, *Arch. Nat., Col., B*, 87:28. The jurisdiction of the sub-delegate was broad enough to cover even murder cases. See case of one Marie Jeanne, a slave, tried for infanticide in 1748. The case was first brought before Sieur Joseph Buchet, the royal storekeeper in the Illinois. Rec. of the Sup. Coun., *La. Hist. Quart.*, XIX, 4, 1112-1115.

⁴⁶Thus when the Sieur La Loere Flaucourt died in that capacity in 1747, the Sieur Buchet, *garde magasin* at Kaskaskia succeeded him. Minister to Sr. Buchet, Versailles, Dec. 11, 1747, *Arch. Nat., Col., B*, 85:32.

⁴⁷See case in *La. Hist. Quart.*, VII, 4, 555-556.

⁴⁸*Ibid.*, XIII, 1, 122-123.

⁴⁹*Ibid.*, XI, 2, 292.

⁵⁰*Ibid.*, XVIII, 1, 168. For a copy of the Black Code, see *Recueils de Règlements, Edits Declarations et Arrêts, Concernant la Commerce, l'Administration de justice, et la Police de colonies Françaises de l'Amérique, et les Engagés. Avec le Code Noir*, Paris, 1765. Also see Riddell, Hon. William Renwick, "Le Code Noir," *Trans. Royal Soc. of Canada*, third ser., XIX, Sec. II, 33-38.

⁵¹Breese, S. J., *The Early History of Illinois*, 49.

⁵²*Quebec Archives, Reports, 1921-1922*, P. G. Roy, 1 ff. The best treatise on the French notariat is that by P. G. Roy, entitled *Histoire du Notariat au Canada*, 4 vols., Lévis, 1890.

⁵³*La. Hist. Quart.*, XIII, 4, 672; XIII, 2, 515.

⁵⁴See Hocquart's ordinance in a case involving the question of precedence of notaries over other officials at church. *Edits, Ordonnances*, II, 553.

All notaries were required to keep registers of their acts which became record books for the use of the notary himself as well as for the judges and the intendant at their need. At certain times the king's attorneys inspected these registers to see that they were in due form, and a notary who consistently failed to comply with regulations was expelled from office.⁵⁵

The form of notarial acts was also regulated by a royal edict. All acts were to be signed under oath by the parties concerned as well as by proper witnesses. Details concerning the parties, their domicile, their names, and the date of the act, were given most minutely, and in cases in which property was involved, the fullest details of all liens and other instruments were required.⁵⁶ By an ordinance of 1743 the notary was also required to keep a minute book in addition to his register.⁵⁷

Notaries, like judges, were paid on the basis of fees collected. When a minute of an act was required, the charge was double what it was without the minute. The pay of subaltern notaries was half that of the royal notaries.⁵⁸

Notarial acts were many and various, involving such things as the following: collection of debts, drawing up of wills and testaments, business contracts, marriages, deeds and transactions, sales, inventories and chancery acts, papers of apprenticeship, registration of gifts and donations, duty of coroner, acts of supervision of minors, etc.⁵⁹ Notarial acts were often registered directly with the superior council, though this was not necessary. The council, of course, had a notary who registered its own acts.

This officer, then, filled an important place in the French judicial system, being vastly more important than our *notary public* of today. The office was evidently sold at a high price, a case having been cited in which a buyer sues to get possession of his registers after having, as it seems, paid 10,000 livres for the office.⁶⁰

Relations between church and state in the French American colonies present an interesting study. Canada was well supplied with religious organizations. There were two seminaries, one at Quebec conducted by the priests of the *Missions Étrangères*, and one at Montreal under the Sulpicians. The Jesuits also had their college at Quebec—the only college in New France. The priests of the Quebec seminary supplied most of the parishes of Canada, those at Montreal ministering to that community only. There were minor schools to prepare persons for the orders at

⁵⁵See Edict of Aug. 2, 1717. *Edits, Ordonnances*, I, 372-375.

⁵⁶*Edits, Ordonnances*, I, 539-541.

⁵⁷*Ibid.*, II, 386.

⁵⁸Here are samples of notarial fees: for an obligation below 20 livres, 5 sols; for an agreement of apprenticeship with minute, 20 sols; for copy of act on paper, 6 sols; for same on parchment, 20 sols. *Ibid.*, I, 611-612.

⁵⁹The Canadian notarial registers have been calendared in *Quebec Archives*. The records of the councils also give much light on notarial acts.

⁶⁰See *La. Hist. Quart.*, X, 1, 81-85.

Quebec and St. Joachim. In each of the cities—Quebec, Montreal, and Three Rivers—there was a convent of Recollets and a hospital served by the Ursulines; there was also a *hôpital général* at Quebec. The Recollets sometimes went among the Indians, though they generally served as chaplains in the army and on the king's ships. There were no other orders of monks established in Canada besides these.⁶¹ The Jesuits also had a church at Montreal, as well as the Franciscans, and each city had a nunnery. At Montreal also was the order of *Soeurs de Congrégation*, who were not nuns, but who worked among the people, teaching reading and writing, and doing charitable deeds.⁶² The parishes of Louisiana were served by the Capuchins of Champagne. New Orleans, too, had a hospital served by the Ursulines.⁶³

In both Louisiana and Canada the Jesuits served the missions among the Indians with a few exceptions. At the Lake of the Two Mountains situated at the mouth of the Ottawa River, the Sulpicians had a mission, while the *Missions Etrangères* had been given a field in the Illinois country, to which they still held title, but which they did not work actively.

The government heavily subsidized all these religious foundations. In Louisiana in 1744, the king allowed 16,104 livres for this item, not counting the support of the Ursulines in the hospital at New Orleans.⁶⁴ Canada, having a much larger religious foundation, got 57,200 livres from the king for its support in 1741.⁶⁵ Missionaries among the Indians were allowed 600 livres yearly by the king.

Education in the colonies was in the hands of the church, though a few men interested in the higher sciences worked independently. La Galissonnière was greatly interested in natural history and did much for its advancement. He worked on lists of the plants, animals, and minerals of the colony, and had all post officers instructed to help him in collecting

⁶¹See King's Instructions to La Jonquière, Apr. 30, 1749, Versailles, *Arch. Nat., Col., B*, 89:49-50; Kalm, *op. cit.*, III, 144-149. Kalm gives the best description of the Canadian religious institutions.

⁶²Kalm, *op. cit.*, III, 72-74; 304-305.

⁶³Memoir of the King for Instructions for M. Michel, Versailles, Dec. 9, 1748, *Arch. Nat., Col., B*, 87:27. The Capuchins in Louisiana in 1750 were distributed as follows: Five at New Orleans (one being senile), one at Mobile, one "au Appalaches," two at the German Coast, one at La Pointe Coupée, one at Natchez, and one at Natchitoches. La Balize was vacant, the church there being *hors d'état*. L'Abbé de L'Isle Dieu to Pontbriand, Apr. 4, 1750, *Quebec Arch. Rep.*, 1935-36, 298-299. There were also a number of Jesuits serving in Louisiana, there being in 1749 five at the different Illinois settlements (two of these were old), two among the Choctaw, and two at New Orleans, one in the position of superior and grand vicar and the other as almoner at the military hospital. L'Abbé de L'Isle Dieu to President of the Council of Marine, Paris, Mar. 28, 1752, *Ibid.*, 322.

⁶⁴Bordeau, 1744, *Arch. Nat., Col., C³A*, 28:368-369.

⁶⁵See King's Statement, 1741, *Ibid.*, *C³A*, 115:10-13. These subsidies were not, however, regularly paid. The Abbé de L'Isle Dieu, writing to Bishop Pontbriand, speaks of the debts of the *Filles de la Congrégation* at Louisbourg, saying: "And why are they in debt? Because the king has paid them nothing of their pension of 1500 livres since 1743 and there was due them in the month of January last six years (pension) making a total of 9,000 livres." Abbé de L'Isle Dieu to Pontbriand, Apr. 4, 1750, *Quebec Arch. Rep.*, 1935-36, 300. The Abbé had succeeded in collecting 1640 livres of this when he wrote. Pierre de la Rue, Abbé de L'Isle Dieu (1688-1799), was vicar-general of Quebec, 1734-1777. See also L'Abbé de L'Isle Dieu to President of Council of Marine, Apr. 21, 1747, *Quebec Arch. Rep.*, 1935-36, 281; same to same, Sept. 12, 1747, *Ibid.*, 282-284. At this time the religious establishments on Isle Royale had received nothing of the subsidies promised them, while the Ursulines in New Orleans were hardly better off. In 1746, Father Charlevoix reported that the Ursulines at New Orleans had failed to receive the full subsidies allotted them for three years, the total arrears amounting to 21,679 livres, 10 sols. L'Abbé de L'Isle Dieu to Pontbriand, Feb. 2, 1746, *Quebec Arch. Rep.*, 1935-36, 279-280.

specimens for the royal gardens at Versailles. It was he who invited Kalm to Canada, at government expense, and entertained him during his studies there.⁶⁶ But outside this small circle, the clergymen and official class, learning was not greatly pursued in the colony. The fact that a colony of 80,000 people owned not a single printing press, may be an index to this, at a time when the newspaper flourished in nearly all the New England colonies. Even the home government, in answer to La Galissonnière's request for a press, had not deemed it necessary.⁶⁷

In return for his subsidies to the church, the king expected it to bend to his control. Regulation of the religious houses was very strict, and their right to own and hold land was carefully controlled.⁶⁸ In case of controversy over property held by the church, the king usually stepped in and sometimes took over the property in dispute. Thus in 1744, during a controversy over the repair of the bishop's palace in Quebec, the king advanced the amount needed and annexed the palace and grounds to his domain, allowing the bishop to use them free of charge.⁶⁹ The superior council kept peace in case of disputes also. A famous case is the controversy over raising of pew rents in New Orleans in 1747.⁷⁰ On the other hand, the government supported the church against its enemies, and helped it when it was in trouble. When a new church edifice was being built, and parishioners lagged in their duty, the ecclesiastical authorities could easily secure an edict from the council, ordering them to carry out their obligations,⁷¹ and heretics or profaners of religion were punished by the state.⁷² Generally speaking, the church maintained an undisputed hold on the people. According to Kalm the religious atmosphere in Canada was much more intense than in the English colonies.⁷³

In respect to the question of the liquor trade with the Indians, however, the state and church were in continuous conflict. The new bishop, Pontbriand, who came over in 1742, took the same stand on this question that his predecessors had taken. Regarding the liquor traffic among the savages the government had long maintained its necessity, on the ground that it could not be prohibited without corresponding loss of furs to the English. It was further subtly proposed by the govern-

⁶⁶Kalm, *op. cit.*, III, 5-7.

⁶⁷Minister to La Jonquière, May 4, 1749, *Can. Arch. Rep.*, 1899, Sup., 159. See also Kalm, *op. cit.*, III, 182. There had been a press in Canada earlier.

⁶⁸*Edits, Ordonnances*, I, 576-581. In some cases friction between the government and a religious institution was accentuated by the enmity of royal officials. Thus in 1746, Le Normand, the stormy intendant of Louisiana, practically destroyed the power of the Ursulines by his restrictive measures against them. There may be some relationship between Le Normand's enmity for this order and their failure to receive the royal subsidies in this period. L'Abbé de L'Isle Dieu to Pontbriand, Feb. 2, 1746, *Quebec Arch., Rep.*, 1935-36, 279-280. This same official also waged war on the Jesuits. The high officials of the church, however, were cognizant of the position of the church, and grateful for the government's good-will. Both sides realized the importance of the missionary as a power with the Indians politically. *Ibid.*

⁶⁹*Edits, Ordonnances*, I, 568-571.

⁷⁰See *La. Hist. Quart.*, II, 365-367.

⁷¹*Edits, Ordonnances*, III, Mar. 27, 1745, 347-348.

⁷²In the case of a fortune teller who used the crucifix and the New Testament, a sentence of three years in the galleys and a scourging was imposed. *Can. Arch. Rep.*, 1899, 151.

⁷³Kalm, *op. cit.*, III, 80 ff. Kalm gives in these pages a vivid description of the wayside crosses in Canada.

ment that a loss in trade would also be detrimental to the interests of religion; for when the Indians would go to trade with the English, they would also imbibe English heresies. The happy medium, therefore, according to this argument, was to tolerate the liquor trade and seek only to keep down abuses.⁷⁴ Pontbriand, however, could not conscientiously agree to this policy. In a scholarly argument he sought to prove that liquor was not as important in holding the trade of the Indians as the introduction of better and cheaper merchandise. From the spiritual side, he opined that the trade in liquor was "absolutely contrary to Christianity."

He complained bitterly that the officers of the posts made little attempt to enforce the regulations on the liquor trade and to limit abuses. Then he went further and took the stand that dealers selling *eau de vie* to the savages should not be absolved of their sins in the confessional, unless they should promise not to repeat the offense. He said concerning this subject: "I would wish with all my heart that religion could agree in this case with the interests of the colony, and that one could trade in *eau de vie* without sin. I would likewise be very much charmed if the most skilled doctors could take away from me the scruples which I can but have on this subject" At the least he asked for very strict enforcement of prohibition in the jurisdictions of Montreal, Three Rivers, and Quebec, and among the domiciliated Indians.⁷⁵ Though the bishop would not yield, he was forced to accept conditions as they were, and the liquor trade went on. In a letter from the Illinois in 1748 we are told that a fifth of the Indians of the Tamarois mission were constantly under the influence of *eau de vie* which the merchants and *voyageurs* sold daily.⁷⁶ The government did try to regulate the amount of liquor sent out for the trade. Thus we find that in the case of the contract Vaudreuil made with the Sieur Deruisseau for the Missouri trade in 1744, it was stipulated that there was to be no trade whatsoever in liquor.⁷⁷ The amount of liquor going up from Montreal in the *voyageur's* canoes was also carefully regulated.

⁷⁴Minister to Pontbriand, Apr. 27, 1742, *Can. Arch. Rep.*, 1904, 304-306. Henri du Breuil de Pontbriand (1709-1760) was Bishop of Quebec, 1741-1760. See also Abbé de L'Isle Dieu to Pontbriand, Paris, Apr. 4, 1750, *Queb. Arch. Rep.*, 1935-36, 296. Here the writer states the thesis that it is necessary to continue the trade, giving the government's case.

⁷⁵Bishop of Quebec to Minister, Aug. 22, 1742, *Arch. Nat., Col.*, C¹¹A, 78:407-409. The Abbé de L'Isle Dieu took a somewhat different stand in admitting the necessity of the liquor. Though he held it necessary to permit the liquor trade with the Indians, he pointed out the necessity of driving out the English traders and supplying of suitable goods to the Indians on the part of the French. He also recommended forbidding trading on the part of soldiers, and placing all trade in the hands of a single company which would maintain central storehouses in Quebec and New Orleans from which all goods for the trade would be distributed. L'Abbé de L'Isle Dieu to Pontbriand, Apr. 17, 1752, *Queb. Arch. Rep.*, 1935-36, 329. The question had been on different occasions referred to the Sorbonne, but all their decisions had been such as to avoid committing themselves. Same to same, Apr., 1750, *Ibid.*, 298.

⁷⁶Abbé de L'Isle Dieu to Minister (?), Dec. 5, 1748, *Arch. Nat., Col.*, C¹¹A, 76:297-297^v. See same to Pontbriand, Feb. 2, 1746, in which it is stated through authority of Father Mercier that the tribes domiciliated there were constantly embroiled by the effects of drink, and often on the brink of revolt against the French. *Quebec Arch. Rep.*, 1935-36, 278. The abandonment of the Choctaw mission in 1747 by the Jesuits, if we are to believe their account, was due quite as much to the bad effects of liquor among the Indians as to the fact that the Choctaw were then in revolt against the French. Same to same, Apr. 4, 1750, *Quebec Arch. Rep.*, 1935-36, 298.

⁷⁷See the memoir on this contract, *Arch. Nat., Col.*, C¹³A, 28:226^v-332.

The king, however, managed to keep on closer terms with the Jesuits than he did with the bishop; consequently, there was friction between the bishop and that order.⁷⁸ Of course the Jesuits did not agree with the government on the liquor trade question. On the whole, however, they were willing to serve the king in a political as well as a religious capacity, and they rendered great services in keeping the Indians loyal to the French and poisoned against the English.⁷⁹ Even Beauharnois, with his dislike for the Jesuits, was obliged to say: "I have never denied that the influence of the missionaries over the minds of the Indians . . . could greatly contribute to the advantages to be expected from them . . ."⁸⁰ The influence of the Jesuits on the savages was in most cases very great, especially among those who were domiciliated. In 1749 the society had a total of fifty-one members in New France, thirty-four of whom were priests located chiefly among the Indians at the various missions.⁸¹

The finances of New France were a part of those of the mother country, and were supplied through the treasurer general of the marine, whose office was at Rochefort. The unit of value as fixed in 1726 was the *livre tournois*, worth one *franc*, two *centimes* in terms of the 1914 French currency. At the same time the gold mark had been fixed at 740 livres, 9 sols, 1 denier, and the silver mark at 51 livres, 3 sols, 3 deniers. Government revenues were "farmed" to forty men called farmers general who established a fund of 60,000,000 livres by advancing 1,500,000 livres each. They made a contract with the government for a six-year period by the terms of which they were to turn in a certain amount of cash each year. In 1744 this amount was set at 92,000,000 livres and in 1749, at 101,000,000 livres. All collected above this amount went as profit to the farmers.⁸²

In New France the circulating medium was chiefly paper. Foreign coins, French coins, coins issued by trading companies, and some few coins minted especially for the colonies circulated to a small extent.⁸³ Coin, however, was always rare, due to the unfavorable trade balance against the colonies, and the reluctance of France to send over coin in any case because of fear of losses in war, or by shipwreck. The common circulating medium was thus restricted to the issues of card money, usually greatly depreciated, bills of exchange on the treasury at Rochefort,

⁷⁸Kalm, *op. cit.*, III, 143-144. See also the quarrel between the Jesuits and the bishop in 1750, when the Jesuits gave refuge to a priest who was under the bishop's ban. They threatened an appeal to Paris and Rome on the subject and brought the bishop to terms. *Journal des pp. Jesuites*, in Thwaites, *Jes. Rel.*, 69, 237.

⁷⁹Kalm, *op. cit.*, III, 142.

⁸⁰Beauharnois to Minister, October 8, 1744, *Doc. Rel. to the Col. Hist. of N. Y.*, IX, 1108-1109.

⁸¹"Catalogue of the Persons and Offices of the Society of Jesus, for the Province of France, at the end of the year 1749," Thwaites, *Jes. Rel.*, 69, 74-79.

⁸²Lavisse, E., *Histoire de France*, VIII, 2, 95 ff.; 229 ff. Twenty sols made 1 livre, and 12 deniers made 1 sol.

⁸³Thompson, C. M., *Monetary System of Nouvelle-France*, 148. Copper coins of small denominations were minted at La Rochelle especially for the colonies and were stamped "Colonies Françaises."

and bills against the local treasury or stores. Bills of trading companies also circulated.⁸⁴

Colonial finances occupy an important place in a study of this period. In Louisiana, by 1744, chiefly as a result of the strain of the Chickasaw War, when great amounts of paper had been issued, card money had fallen into such great disrepute that it was withdrawn from circulation by the king's ordinance.⁸⁵ Encouragement of the circulation of Spanish silver *pistoles* then took place, and the false prosperity, due to the war of 1744-1748, led to a boom in trade, especially with the Spanish. Champigny says agriculture was neglected and even comfortable planters left their land to enter commerce.⁸⁶ After the peace of 1748, trade rapidly declined and the Spanish money was withdrawn. "It became impossible to maintain the expenses of the colony with such means of exchange and it was necessary to fall back on our miserable old system of paper money."⁸⁷

Expenses of the colony were classified as fixed, or ordinary, and as indefinite, or extraordinary. Together they made up the total of acquittals for the account of the colonies at the treasury of the marine each year.⁸⁸ Ordinary expenses were fixed by the king, and included such items as salaries of officials, grants to the religious institutions, sums ordained for the fortifications, and the like. Extraordinary expenses, on the other hand, were determined in the colony by the exigencies of the service. These arose for the most part in connection with war and the Indian administration—they were unforeseen, and hence could not be estimated beforehand. They were ordered by the governor and approved and issued by the intendant in the form of issues from the king's stores, or more often by furnishings of private individuals for the king's account. They rarely involved money, but most often were issues in kind.⁸⁹ All expense accounts were visaed by the governor and usually signed by him, but the real issue was in the hands of the intendant, who could "moderate" the total of the bill if he felt it was unjust.⁹⁰

⁸⁴Thompson, *op. cit.*, 150. One of the best contemporary accounts of the currency is found in Le Mascrier's edition of Dumont's *Mémoires sur La Louisiane*, II, 53-57. Dumont's manuscript may be found in the Newberry Library in Chicago. The card money was issued in denominations of from 5 sols to 50 livres. Since many people could not read, the denomination was indicated by the manufacture of the card. In the center was printed the royal arms, on one side the number of the card, and on the other the amount and value. These cards were signed by the treasurer, the governor, and the intendant. They were legal tender even on vessels of the king and the company. Counterfeiting was common. The cards could be exchanged in the colonies for bills of exchange on France, but in France they could be exchanged only for Spanish piasters at a great discount, according to Dumont. In 1728, according to the same authority, the piaster was valued at 5 livres French money or 10 écus in cards. Ten years later (after the company had returned Louisiana to the king) the piaster was worth 7 livres, 10 sols, in cards. At the posts nearly all trading was done by barter, money being rarely seen.

⁸⁵Dated Apr. 27, 1744, *Can. Arch. Rep.*, 1809, Sup., 154. French says the circulation reached 7,000,000 livres and circulated at twenty per cent par of specie. This doubtless included paper of all kinds. See Champigny's *Memoir on Louisiana*, in *La. Hist. Coll.*, V, 135-137. A recent investigator, using the Paris Archives material, gives the paper in circulation in 1744 as 1,050,000 livres. See N. M. Surrey, *The Commerce of Louisiana*, 134.

⁸⁶French, *La. Hist. Coll.*, V, 135-137.

⁸⁷From "A Chapter in Colonial History," in *La. Hist. Quart.*, VI, 4, 567.

⁸⁸Instructions to M. Michel, Versailles, Dec. 9, 1748, *Arch. Nat., Col.*, B, 87:30.

⁸⁹*Ibid.*, 30-30v.

⁹⁰Minister to Vaudreuil and Le Normand, Versailles, *Ibid.*, B, 83:20-20v.

Each colony also had extraordinary receipts, which were usually negligible in amount. These included income from sales made from the king's stores to individuals, and the return of goods issued in case of their not being used in the service. The receipts from fees and licenses from the fur trade might also be included under this head, though it was not customary; the same applied to other incomes.⁹¹ The ordinary receipts were the stocks from the king's stores sent from France, and the right to use a certain amount of letters of exchange to augment this sum.

Besides the expenses of the colony within the colony, sometimes incidental expenses were charged to the account of the colony in France. Thus in 1742, M. Salmon asks credit for 20,094 livres, 12 sols, 11 deniers to cover expenses occasioned by troops of the marine from Brest, and some miners sent to his colony.⁹² Pensions to colonials also were often paid in France.

Expenses were charged to the funds of the colony in three ways: first, by letters of exchange on the treasurer general at Rochefort; secondly, by the statements of goods furnished by individuals for the service over and above the goods furnished by the king for his stores; and thirdly, by small outlays in France at the colony's account, such as pensions, gratifications, etc. Of the total funds ordained in France for the colony, four deniers per livre were withheld for the general pension fund. Extra letters of exchange beyond the amount decreed formed an anticipation on the account of the colony for the following year.⁹³

Each year the king stocked his magazines in the colonies, these supplies being a part of the funds of the colony, and being charged to the colony's account as receipts. The goods were generally bought in France at prices fixed by the intendant at Rochefort. Being delivered by the furnishers to the depots there, they were issued to the colony on proper receipt at fixed prices, quantities, weights, and measures, and then sent to the colony, usually in the king's ships, but sometimes in private vessels. The storekeeper in the colony received the goods and entered the receipts into his registers, and then issued a certificate to the masters of the ships which discharged them and their clerks of the cargoes, and, in the case of private vessels in this service, served also as a freight receipt. The storekeeper and the intendant then made recognition of these receipts upon the general statement for the colony. The farmer general of revenues of that district also had a receipt of the transaction.⁹⁴ The regulation of qualities and measures was fixed in an edict of March 1. 1744.⁹⁵

Toward the end of the year, there was drawn up in the colony a

⁹¹Memoir for Instruction for M. Michel, Versailles, Dec. 9, 1748, *Ibid.*, B, 87:31v.

⁹²Salmon to Minister, Feb. 13, 1742, *Ibid.*, C¹³A, 27:91-92v.

⁹³Memoir for Instruction for M. Michel, Versailles, Dec. 9, 1748, *Ibid.*, B, 87:30v-31v.

⁹⁴*Ibid.*

⁹⁵*Edits, Ordonnances*, I, 576-585.

bordereau, or general statement of the receipts and expenses of the colony for the year, which was based upon the king's statement issued earlier in the year, plus the receipts for the stores, and extraordinary receipts, against which was set the total expenditures, including letters of exchange drawn for the extraordinary expenses, and total issues in kind, as well as all money spent. The excess over the total allowed in the king's statement was carried forward as an anticipation on the funds of the following year. The agent of the farmer-general in charge of the revenues in the colony issued a statement to the farmer-general showing all letters of exchange and other discharges, which should agree with the sum ordered by the king plus that to be remitted in advance on the expense of the following year.⁹⁶ This was the farmer-general's check.

With this explanation of the fiscal system, we shall discuss the expenditures and receipts of the colony of Louisiana during the period under consideration. Unfortunately, the statements of extraordinary expenses seem to be entirely lost, and expense accounts for the whole colony are not at hand for every year. Thus we are handicapped in making any complete analysis of the finances of the colony for the period. We can, however, make sample studies.

Louisiana was returned to the crown by the Company of the Indies in 1731, but it was some years before the settlement was completely made. The king assumed the company's properties there, valued at 445,489 livres, 2 sols, while the company paid the state 1,004,510 livres, 18 sols to be released from its contract.⁹⁷ Thus the control of the company came to an end. The Illinois country had been added to Louisiana during the period of the company's control,⁹⁸ so that the colony was now increased over its former size and consequently had a larger budget.

It would seem when compared with those of Canada, that the expenses of Louisiana were exceedingly large. This may have been due to the greater inflation of the currency in the early period, and especially to the unusual expenditures in 1739-1740 during the Chickasaw campaign. Bienville and Salmon wrote in June, 1740, that the country was flooded with paper as a result of this undertaking, and they estimated that 200,000 livres in card money would be required to keep up the circulation at the posts.⁹⁹

In 1743 the colony evidently still suffered from the effect of this derangement, for in that year, Vaudreuil (who has been accused of being more extravagant than Bienville) estimated expenses in the colony at

⁹⁶Memoir for Instructions for M. Michel, Versailles, *Arch. Nat., Col., B*, 87:31^v.

⁹⁷See Statement on Retrocession of Louisiana, dated in 1742?, *Ibid.*, C¹³A, 27:185 ff.

⁹⁸*Edits, Ordonnances*, Sept. 27, 1717, I, 388.

⁹⁹Bienville and Salmon to Minister, June 24, 1740, *Arch. Nat., Col., C¹³A*, 25:9-16^v. The total of expenditures on this campaign is missing, though it was sent with this letter. Jean Baptiste le Moyne, Sieur de Bienville (1680-1768), was founder of Louisiana with Iberville, his brother, and governor, 1702-1704, 1718-1724, 1733-1743.

932,318 livres, 12 sols. He tried to find justification for these large expenditures in the great outlays for fortification, which he says accounted for two-thirds of the amount, but he admits the whole sum had been greatly augmented by the lack of bills of exchange, in lieu of which M. Salmon had been forced to issue paper which the merchants had greatly discredited. He said the only remedy for the situation was to liquidate the outstanding paper as soon as possible. A plan for accomplishing this at least expense to the king was offered in the proposal that 600 negroes be sent over at the king's account, these to be sold at 1,800 livres each, thus retiring all outstanding paper, and giving the king a profit of 360,000 livres besides.¹⁰⁰ The proposal, however, seems not to have been favorably received by the minister.

In 1744, the total receipts for the whole colony were put at 192,610 livres, 1 sol, 9 deniers, to which was to be added sales of goods, and other incomes amounting to 23,512 livres, 14 sols, 3 deniers. But the grand total of expenses amounted to 713,055 livres, 8 sols, 11 deniers, leaving, without counting extraordinary receipts, an anticipation on the next year of 520,445 livres, 7 sols, 2 deniers. This gives some idea of how the inflation of Louisiana currency affected the country's budget. While the 192,610 livres, 1 sol, 9 deniers, represented chiefly receipts from France sent to the king's stores, nearly 400,000 livres extra was expended in purchases in the colony for stocking the same stores. A part of these expenditures were of course due to the war against the Chickasaw, while the outbreak of war with the English also occasioned additional expenses.¹⁰¹

In 1745, with conditions improving, the recapitulation was:¹⁰²

	<i>Livres</i>
Appointments of officials, officers, and others.....	87,290
Gratifications	7,740
Pay and support of companies.....	77,157
Appointments of <i>officiers reformés</i>	2,520
Wages of officers of the marine, sailors, and workers....	19,804
Presents to the savages.....	14,000
Divers expenses.....	110,738
Fortifications.....	61,000
<i>Total</i>	380,249

Receipts for this year are not given, and there is reason to suspect that extraordinary expenses might not be included. On the whole, however, it would seem that the financial situation was more stable at this time.

Naturally there were frequent demands for retrenchment. A great deal of criticism was brought against Louisiana because of unusual expenses at the posts. Vaudreuil admitted abuses, but argued that no other

¹⁰⁰Vaudreuil to Minister, New Orleans, Aug. 25, 1743, *Ibid.*, C¹³A, 28:84-84v.

¹⁰¹*Bordereau*, 1744, *Ibid.*, C¹³A, 28:368 ff.

¹⁰²*Bordereau*, 1745, *Ibid.*, C¹³A, 29:237 ff.

method could be used except that of giving receipt for payment at the posts when purchases were made there, and he was not of the opinion that these receipts should be censored later.¹⁰³ Another reason for heavier expenses was found in the fact that letters of exchange had customarily been drawn for long terms in Louisiana. In 1746 this was remedied by putting the letters of exchange upon the shortest terms possible.¹⁰⁴

The amount required for Indian presents constantly increased. The king had allowed at the beginning of this period 14,000 livres for this item, but by 1746 the total amounted to 54,000 livres. This was due in part to war conditions then existing, but it cannot be denied that there were other factors in the increase. It is true that additional presents for the Illinois Indians were necessitated by the uprising among the Indians beginning in 1747. In any case, economy was demanded by the minister.¹⁰⁵

Great expenses and abuses also existed in the practice of sending up the Illinois convoy each year. This convoy included three or more *batteaux* each manned by a score or more of men, and a number of *pirogues* with crews of eight or nine. By this convoy supplies were sent up to the posts at the Arkansas, at Natchitoches, and the Illinois. The boats were strongly guarded by soldiers and manned by slaves as rowers. Traders and their *engagées* usually accompanied the convoy, taking advantage of the opportunity for better protection for their outfits.¹⁰⁶ The frequent attacks made upon the convoy by the Chickasaw and the Cherokee caused heavy losses. Vaudreuil had proposed in 1744 that the convoy be sent up later in the season,¹⁰⁷ to avoid fatigues of heat and dangers from the savages who would cause less trouble in winter days,¹⁰⁸ but nothing seems to have been done about it.

The abuses in connection with the convoy were sometimes so flagrant as to cause investigation even in Louisiana. The convoy which left in August, 1749, under the command of Lieutenant de Montchervaux, was on November 1 still eighty leagues from the Illinois. The slow progress was said to have been due to drunkenness and other disorders on the part of the men, caused by a general lack of discipline. M. de Montcher-

¹⁰³The system in Canada required that bills be sent down to the intendant, who often slashed them considerably, whether from actual desire to lower expenses or from other motives. Vaudreuil argued the lack of a rule or regulation to establish a basis for validation. See Vaudreuil and Le Normand to Minister Jan. 4, 1745, *Arch. Nat., Col., C¹³A*, 29:8^v-9. The minister claimed the chief trouble was due to the greed of the officers at the posts, and to their failure to punish those guilty of speculation. He recommended taking the trade out of their hands and farming out the posts or putting the trade on the license system as was done in Canada. He asked for a report on this. Minister to Vaudreuil and Michel, Versailles, Sept. 26, 1750, *Ibid.*, B, 91:11-11^v.

¹⁰⁴Minister to Vaudreuil, Versailles, *Ibid.*, B, 83:10^v.

¹⁰⁵Minister to Vaudreuil and Le Normand, Versailles, Oct. 9, 1747, *Ibid.*, B, 85:14-14^v.

¹⁰⁶For a description of a convoy going to the Illinois, see Journal of Antoine Bonnefoy, in Mereness, *Travels in the American Colonies*, 241 ff.

¹⁰⁷He had sent it that year in January because of lack of goods, which had forced a long delay. The usual time of departure was in August, the convoy ordinarily reaching its destination in November. The returning convoy usually left the Illinois in April of the following year, only fifteen days being required for the return trip.

¹⁰⁸Vaudreuil to Minister, New Orleans, *Arch. Nat., Col., C¹³A*, 28:249.

vaux submitted a bill of 1,200 livres for a hunter who furnished game for his table! It was also charged that the lieutenant had purposely left the Indian presents behind at New Orleans, buying others for an exorbitant price at La Pointe Coupée. M. Michel called the convoy "*un pillage et une volerie perpetuelle*."¹⁰⁹ This investigation led in 1750 to the approval of a scheme to send up the king's goods under contract with private individuals.¹¹⁰ At the same time an order for the trial and punishment of the officer was given. The example of M. de Montchervaux was not unusual in Louisiana where government expenditures were long the chief source of income for the people.¹¹¹

In Canada, as in Louisiana, paper was almost the only circulating medium—and Canada, unlike Louisiana, was not put on a metallic currency at any time during this period. Kalm says: "They have in Canada scarce any other but paper-currency. I hardly ever saw any coin, except French sols, consisting of brass, with a very small mixture of silver; they were quite thin by constant circulation, and were valued at a sol and a half."¹¹² No coin seems to have been issued for Canada after 1721, when 150,000 marks of copper pieces were ordered.¹¹³ Card money authorizations under the ordinance of May 12, 1733, stood at 600,000 livres.¹¹⁴ In 1742 this was increased by 120,000 livres.¹¹⁵ This inflation gave very little relief, most of this amount having been used to retire bills issued in the previous year. Toward the end of the same year Hocquart says he was faced with expenses of 491,000 livres and had on hand only 142,000 livres of card money and 80,000 livres in letters of exchange.¹¹⁶ It was found necessary to revalue the "old sols" in this period. In 1743 it had been ordered that only a fortieth part of the payment of a bill could be made in this money due to its exaggerated value, and a year later it was ordered that metal sols were no longer to be received except at the value of 18 deniers.¹¹⁷ At the end of the decade, it was ordered that the circulation of card money should be increased to 1,000,000 livres.¹¹⁸ There also circulated small amounts of French and foreign coinage, as well as the bills of the intendant (usually retired within a year), and bills of the Company of the Indies.

Attempts were being made at this time to devise a revenue for Canada.

¹⁰⁹M. Michel to Minister, New Orleans, Jan. 22, 1750, *Ibid.*, C¹³A, 34:291-296. Honoré Michel de la Rouvillière, Sieur de Villebois (1737?-1752), was intendant of Louisiana, 1748-1752.

¹¹⁰Minister to M. Michel, Versailles, Sept. 26, 1750, *Ibid.*, B, 91:8; also Minister to Vaudreuil and Michel, Versailles, Sept. 26, 1750, *Ibid.*, B, 91:13-13^v. Though the plan to put the convoy under private contract was approved, it was not put into effect.

¹¹¹See "A Chapter of Colonial History," in *La. Hist. Quart.*, VI, 4, 566.

¹¹²Kalm, *op. cit.*, III, 68-70.

¹¹³*Edits, Ordonnances*, I, 437.

¹¹⁴*Ibid.*, 544-545.

¹¹⁵Minister to Hocquart, Feb. 27, 1742, *Can. Arch. Rep.*, 1904, 299; Beauharnois to Minister, Quebec, Sept. 20, 1742, *Arch. Nat., Col.*, C¹¹A, 77:106-107; Hocquart to Minister, Quebec, Apr. 30, 1742, *Ibid.*, C¹¹A, 78:97-105^v.

¹¹⁶Hocquart to Minister, Quebec, Oct. 30, 1742, *Ibid.*, C¹¹A, 78:97-105.

¹¹⁷*Edits, Ordonnances*, II, 387-388.

¹¹⁸Minister to La Galissonnière and Bigot, Apr. 18, 1749, *Can. Arch. Rep.*, 1905, 1, 112.

In 1733 the king had submitted two schemes for the consideration of the governor and intendant. One of these involved a three per cent tax on exports and imports, the other a *taille* on the inhabitants. Nothing seems to have been done about this, however, and in 1742, the king again referred to the matter by asking for an investigation. He recommended that the *taille* be chosen. For the time being, however, he was content with a small tax on *eau de vie* and wine used for the trade with the Indians (3-4 livres per barrel on brandy, and 4 sols per pot on wines).¹¹⁹ A special duty on wines, *eau de vie*, and rum was levied to contribute toward the expense of building the fortifications of Quebec. In 1747 these duties were augmented for a three-year period as follows:¹²⁰

	Old Duty	New Duty
Wine, hogshead.....	9 livres	12 livres
<i>Eau de vie</i> , velt (7 qt.).....	16 sols, 8 deniers	1 livre, 4 sols
Rum, hogshead.....	15 livres	24 livres

In February, 1748, an edict was issued placing a three per cent tariff on all goods entering or leaving Canada, excepting wines, brandies, and rums taxed under the *Ordonnance* of 1747. Additional exceptions were made in the case of food exports to the islands or other French colonies, goods outgoing and ingoing for Canadian fisheries, as well as on cordage, salt, horses, new ships built in Canada, salt herring, and a few others. Elk skins going out were also exempted, because they had been previously taxed.¹²¹ It was provided, however, that this edict was not to go into effect until the end of the war.¹²² Sometimes levies were made on the *bourgeoisie*; one in Montreal in 1741 amounted to 5,000 livres.¹²³

Administrative expenses of Canada averaged slightly over 100,000 livres per year. The recapitulation for 1741 is as follows:¹²⁴

	Livres
Appointments of officials, and entertainment of special garrisons.....	23,250
Religious Houses.....	57,200
Officers of Justice.....	11,330
Hospital of Quebec.....	1,600
Extraordinary expenses.....	1,800
Expenses of Isle Royale.....	15,750
Expenses of sending a Doctor of Botany to Louisiana.....	2,000
<i>Total</i>	112,930

¹¹⁹Memoir of the King to Beauharnois and Hocquart, Fontainebleau, Apr. 30, 1742, *Arch. Nat., Col., B*, 74:503-511. In general the colonial trade was regulated by the edict of May 12, 1717. Under this edict colonial products were to be received into France free of any duties excepting the farmer general's (of revenue) tax. Goods destined for other countries from French colonies were to be transhipped from French ports. The tax on hides, for example, was 5 sols each. In general this duty on colonial imports was three per cent *ad valorem*. An export duty on colonial goods transhipped to foreign ports was also levied. Naturally the whole trade was regulated strictly in accordance with the demands of the mercantilist system. *Recueils de Règlements, Edits, Déclarations et Arrêts*, etc., 46-61.

¹²⁰*Edits, Ordonnances*, Jan. 23, 1747, I, 589.

¹²¹*Ibid.*, I, 591-594. For table of duties on specific articles, see *Ibid.*, 594 ff.

¹²²*Ibid.*, 608-609.

¹²³*Bordereau*, 1741, *Arch. Nat., Col., C¹A, 114:336-402v.*

¹²⁴*Ibid.*, *C¹A, 115:10-13. For the year 1742, the same was 116,430 livres. *Ibid.*, *C¹A, 115:27-31. Other examples of this administrative expense are: 1747, 103,250 livres, *Ibid.*, *C¹A, 115:381-382v; 1746, 105,680 livres, *Ibid.*, *C¹A, 115:301-302; 1745, 115,080 livres, *Ibid.*, *C¹A, 115:146-150v.*****

In this same year, the *bordereau* shows the following figures:¹²⁵

	<i>Livres</i>	<i>Sols</i>	<i>Deniers</i>
Funds ordained in the king's statement, May 14, 1741...	358,248	16	4
From which deduct excedents of previous year.....	34,623	16	4
Which leaves.....	323,625	...	..
Plus extraordinary receipts, bringing it up to.....	412,458	4	8
Total expenses, all deductions made.....	515,627	19	6
Excedents of expenses on receipts.....	103,169	14	10

In 1744, the king allowed about the same amount (386,173 livres, 13 sols, 7 deniers), while deductions for previous excesses amounted to 53,623 livres, 3 sols, 7 deniers, leaving 332,550 livres, 10 sols, to which of course was to be added extraordinary receipts and the income from the fur trade.¹²⁶ Again, in 1745, the king allowed 491,517 livres, 15 sols, 4 deniers, but deductions for excesses amounted to 161,163 livres, 2 sols, 10 deniers, this due to the increase of extraordinary expenses by reason of the war with the English.¹²⁷ During the war, of course, expenses mounted wildly in Canada on account of the huge outlays that were made.¹²⁸

Many other items of expenditure in Canada were not usually charged to the colony's account. These included a sum of over 100,000 livres yearly for the maintenance of the king's domain,¹²⁹ and such outlays as those for shipbuilding at Quebec, the operation of the forges at St. Maurice, and others.

There was regularly allowed for acquittals of extraordinary expenses in Canada 250,000 livres authorized in letters of exchange in addition to the amounts granted as the stocks for the king's stores. This item we may be sure was regularly exceeded. In 1739 the total of letters of exchange issued amounted to 280,401 livres, an excess of 30,401 livres over the authorization. This, of course, was an abnormal year due to heavy consumptions in raising and equipping the army which was to be sent against the Chickasaw, though this expenditure was finally charged to Louisiana's account. We may assume that this item grew larger during the heavier expenditures of the war of 1744-1748.¹³⁰

The greater part of excesses in expenses was due to the extraordinary expenses incurred at the several posts of the colony. These outlays were for the maintenance of the service in various ways: chiefly in payment of freight and shipping charges, expenses for errands and voyages, and considerable outlays for the savages in food, merchandise, repairing of arms, and so forth. Outlays to the Indians were made either as presents for obtaining their good will, or for subsidizing their war parties, as

¹²⁵*Bordereau*, 1741, *Ibid.*, C¹¹A, 114:336-402^v.

¹²⁶*Arch. Nat., Col.*, C¹¹A, 115:65. It should be noted that the revenues from the fur trade gave Canada a considerable sum, which was not true in Louisiana.

¹²⁷*Ibid.*, C¹¹A, 115:150.

¹²⁸See *infra*, pp. 32 ff.

¹²⁹Minister to Beauharnois and Hocquart, June 19, 1745, *Ibid.*, B, 81:314^v.

¹³⁰Minister to Hocquart, Versailles, Apr. 24, 1740, *Ibid.*, B, 70:333-333^v.

well as for relief to them in times of scarcity.¹³¹ At times extraordinary expenses were occasioned also for the entertainment of the garrison of the post itself, when the king's stores had been depleted of their stocks. These needs were supplied by purchases from traders at the posts, generally at high prices, for costs of freight alone from, say Detroit to Montreal, were estimated at thirty per cent of the value of the goods. Then, too, there was much dishonest dealing carried on.

Upon delivery of goods, or shortly thereafter, a certificate was drawn up by the commandant of the post and the trader, which gave a detailed list of the goods furnished, with quantities and prices of each item as well as the total amount. This certificate was signed by the trader and the post commandant as an evidence of its verity. The certificate then went to the intendant and governor who passed upon it, the intendant scaling down individual figures or the total sum as he saw fit.¹³² It was then acquitted by a letter of exchange, by card money, or by a bill issued by the intendant. A copy of the bill was made by the commissary where it was acquitted (in case of the western posts this was done at Montreal), and this copy was sent to the minister along with the general *bordereau* of expense.

The policy was to separate administrative expenses of the posts from other expenses. These were supposed to be paid by the proceeds from licenses to traders. Administrative expenses included such items as gratifications of officers detached, of the missionary, of the interpreter, of the surgeon, and of the almoner, but not the pay of the garrison, if any. Officers were usually forbidden to keep their wives at the posts, in order to cut down expense, and allowances for storekeepers and other help were minimized.¹³³ Abuses on the part of the storekeepers were not uncommon, and were much complained of,¹³⁴ the officers themselves being sometimes implicated.¹³⁵

¹³¹Hocquart to Minister, Oct. 14, 1742, *Ibid.*, C¹¹A, 78:28-34^v.

¹³²The expense bills for the western posts are found in the *Archives Nationales, Colonies*, at Paris. The C¹¹A series, vol. 117, contains most of the bills for the period under consideration. No expense bills for the Louisiana posts have been preserved. This material, which has persistently been neglected by scholars in the past, has been used in the preparation of this dissertation as one of the chief sources. Its value lies in the fact that it contains details that are most often missing in other documents. For a record of movements of the French and savages at the posts it is invaluable. In the field of prices and trading activity it is also very useful. Great care must be taken, however, to guard against deceptions of many kinds, for it should be remembered that though these bills were subject to the censorship of the intendant, he was also subject to speculation. Pouchot says many "hypothecated accounts" were turned in, especially during war. *Memoir on the Late War*, II, 50-51. Sometimes the "moderations" of the intendant were drastic, either upon the excuse that prices charged were too high, or else when the amounts specified to have been furnished were in doubt. Doubtless other reasons of less justifiable nature may sometimes have influenced the intendant to make a reduction. An example of most drastic reduction is found in the case of a bill of furnishings at the store of Sieur Charly at the Post of the Miamis in December, 1744. In this instance Hocquart moderated a bill for 1491 livres to 100 livres. *Arch. Nat., Col.*, C¹¹A, 82:213. On the other hand, Hocquart signed a bill in favor of the Sieur Gamelin at the Wea post in June, 1746, which allowed thirty per cent carrying charges on the bill. *Ibid.*, C¹¹A, 85:287-290.

¹³³Minister to Hocquart, Fontainebleau, Apr. 20, 1742, *Arch. Nat., Col.*, B, 74:478-478^v.

¹³⁴See discussion of the case of La Force at Niagara, in Hocquart to Minister, October 26, 1740, *Ibid.*, C¹¹A, 73:306-309.

¹³⁵See accusations against the Sieur Duplessis-Fabert, commandant at Michilimakinac, for fraud in purchases of his brandy supply. Minister to La Jonquière, Versailles, May 31, 1750, *Wisc. Hist. Coll.*, XVIII, 61-62; also La Jonquière to Minister, Quebec, Sept. 20, 1750, *Ibid.*, 67.

It would appear that the income from trading licenses at the posts was usually sufficient to meet ordinary expenses of administration, even though the king often deducted certain sums for poor relief from the income from trading permits. Consider the case of Detroit individually for 1742. M. de Céloron reports that in that year, the income from licenses at his post was 6,000 livres. The outlays against this were 3,000 livres for the commandant's gratuity, 621 livres, 10 sols, for expenses of a certain trip he had made (it would appear this might have been charged to extraordinary expenses), 500 livres to the almoner, 300 livres to the surgeon, and 400 livres to the interpreter, which left 1,178 livres, 10 sols, which he had used to pay for supplies and for other uses at the post.¹³⁶

Receipts necessarily varied with the years. In 1743, a normal year, total receipts from *congés* and farms of the posts of the upper country amounted to 47,783 livres. After all charges against this had been paid, amounting to 38,682 livres, a surplus of 9,101 livres was remitted to the treasury.¹³⁷ The statements for the years 1745 and 1746 are not at hand, but they doubtless showed a lean harvest due to the war and resulting unsettled conditions in the upper country,¹³⁸ for as early as 1744 the receipts amounted to only 17,661 livres.¹³⁹ However, receipts for 1747, a year which saw the Indian uprising in the upper country, are 46,600 livres, or 10,452 livres above all expenses. Part of this large sum of receipts is to be explained in the fact that the accounts show collection of several installments of back dues on the rent of farms. The next year receipts amounted to 31,868 livres, 13 sols, 6 deniers, and expenses were 26,134 livres, 7 sols, leaving a surplus of 5,734 livres, 6 sols, 6 deniers.¹⁴⁰ These samples reveal that the administrative expenses of the Canadian posts were easily met by the proceeds of the fur trade, possibly even in the worst years, though the material at hand does not allow an exact account of this.

With extraordinary expense, however, it is different. The regular incomes were, of course, very inadequate to meet the strain of war or unusual expenses such as those incurred at the instance of the Indian revolt in the upper country in 1747. In 1744 at the beginning of the English war, we find that over 100,000 livres were required to stock the king's stores "at the occasion of the war," that is, to put them in con-

¹³⁶Beauharnois to Minister, Quebec, Nov. 2, 1742, *Mich. Pion. and Hist. Coll.* (Cadillac Papers), 34, 211.

¹³⁷Included in expenditures were bills of 12,232 livres for the relief of Canadian poor, 6,250 livres for the Montreal fortifications, and 2,000 livres for the establishment of the Algonkin and Nepissing at Lake of the Two Mountains. *Arch. Nat., Col., C¹¹A*, 115:32-33^v.

¹³⁸A study of the record of *congés* shows that in 1745 there were forty-three *congés* issued for the trade, which was ten less than the fifty-three issued in 1743. In 1746 the number fell still lower, to thirty-two. Detroit, for instance, got only eight in 1745, while she had fourteen in the previous year. The falling off in the number of *congés* of course lessened the income, while many of the farmers failed in their rents also.

¹³⁹*Arch. Nat., Col., C¹¹A*, 115:65-65^v.

¹⁴⁰Report of La Galissonnière, Sept. 29, 1749, *Ibid.*, C¹¹A, 116:144 ff. This report covers the years 1747 and 1748 and gives an estimation of the incomes and expenses for 1749.

dition for war issues on a somewhat adequate scale.¹⁴¹ In 1746, when the war effort was at its highest, incident to the threatened English campaign against Canada from New York, the total issues from the stores of Montreal and Quebec amounted to over 1,000,000 livres,¹⁴² and in the first eight months of the next year, Montreal expended for various war parties against New England over 335,000 livres.¹⁴³ Nearly 100,000 livres of this amount was spent for one expedition, which netted only a few scalps.¹⁴⁴ Due to these heavy expenditures which served only to aggravate the ills of the French treasury, the king decided to put the colony on a defensive basis in 1748, abandoning offensive tactics.¹⁴⁵ The fact that negotiations for peace were then being held may be another factor in the issuing of this order.

Expenses for Indian administration may be put into two categories: expenses for incidental movements and general oversight of the Indians at the posts, and outlays for presents. Presents were usually distributed at Montreal and Quebec, though post commanders and special messengers also made presents in certain cases. Of course much greater outlays were made to the Indians for war purposes and, in cases of emergency, for their support. In regard to the first item we find that only 5,000 livres were expended in 1740-1741.¹⁴⁶ On the other hand, outlays for presents were far greater, amounting in 1741, a normal year, to about 65,000 livres. Part of this sum was, however, of an unusual nature, for in this year Beauharnois attempted to move the Huron from Detroit to Montreal. The expenses of this venture amounted to more than a fourth part of the 48,000 livres laid out to the Indians of Montreal that year.¹⁴⁷ When it is considered that the inventories of all the king's stores excepting only that at Fort Frontenac showed only 232,545 livres, 8 sols, 8 deniers, this outlay appears all the more considerable. In 1744 Indian presents were slightly in excess of 60,000 livres,¹⁴⁸ this being the first war year, while administrative expenses rose to over 10,000 livres for the western Indians in 1745.¹⁴⁹ It might seem strange that the total expended for presents shows a decline in 1746 and 1747. In the former year, for instance, the total for presents is given as 41,634 livres, 4 sols, 4 deniers,¹⁵⁰ while that for 1747, the year of the Indian rebellion in the upper country, was put at 33,391 livres, 7 sols, 8 deniers.¹⁵¹ This is explained in the fact that

¹⁴¹Hocquart to Minister, Quebec, Oct. 29, 1744, *Ibid.*, C¹¹A, 82:159-159^v.

¹⁴²*Ibid.*, C¹¹A, 117:48.

¹⁴³*Ibid.*, C¹¹A, 117:320^v.

¹⁴⁴*Ibid.*, C¹¹A, 117:20-31.

¹⁴⁵Minister to La Galissonnière, Mar. 6, 1748, *Can. Arch. Rep.*, 1905, 1, 105.

¹⁴⁶See Hocquart to Minister, Quebec, Nov. 3, 1740, *Arch. Nat., Col.*, C¹¹A, 73:381-383; *Bordereau*, 1741, *Ibid.*, C¹¹A, 114:39-39^v.

¹⁴⁷Hocquart to Minister, Quebec, Oct. 24, 1741, *Ibid.*, C¹¹A, 76:14-17^v.

¹⁴⁸Minister to Hocquart, March 31, 1745, *Can. Arch. Rep.*, 1905, 1, 40.

¹⁴⁹Hocquart to Minister, Quebec, Nov. 2, 1745, *Arch. Nat., Col.*, C¹¹A, 84:106^v-107.

¹⁵⁰*Ibid.*, C¹¹A, 117:91-93.

¹⁵¹*Ibid.*, C¹¹A, 117:144-146. Outlays made at the western posts were, of course, much higher in these years, the expense accounts showing the greatest outlays in extraordinary expense

most Indians allied to the French were in Montreal in those years engaged in the war with the English. They were of course supported here under regular war issues. Since most of these warriors brought their families with them, extraordinary outlays for the war itself were greatly increased. Indian refugees from the east also gathered at Montreal and Quebec to be supported on the government's dole. We find the governor and intendant hard put to defend these large outlays.¹⁵² Of course, there were the usual outlays for presents for diplomatic purposes.¹⁵³

Canada also made in these years considerable outlays for the Chickasaw War. The campaign of 1739-1740 cost 136,857 livres, 11 sols, 9 deniers, though this amount was eventually charged to the account of Louisiana.¹⁵⁴ Minor outlays were made for the continuance of the war, chiefly in the years 1741-1743.¹⁵⁵

The expenditures of the colony for religious and charitable purposes have been discussed above. Some of the larger outlays for the church and religion were 12,700 livres for the support of the bishop and cathedral at Quebec, 7,600 livres for the support of the country *curés*, and 9,000 livres to the Jesuits for their missions both in the west and in the east (Abenaki missions). The Seminary of the Sulpicians at Montreal got 6,000 livres, and the various other organizations got smaller amounts. The total of this item in 1741 was 57,200 livres, and it remained about the same every year.¹⁵⁶ Each year 10,000 livres or more went to poor relief for the whites.¹⁵⁷

in the decade. Not counting the Illinois (for which expense accounts are not extant in the Paris Archives), we find that the total outlay at the posts in the year 1746 was 17,796 livres, 10 sols, 11 deniers, and in 1747 it had soared to 50,159 livres, 7 sols, 8 deniers. The chief cause of the unusual expenditure was, of course, the Indian rebellion, but it is impossible to tell with certainty how much went to this item and how much went to other accounts. In any case, the fact that the outlay for 1747 was nearly half of the total outlays for this item for the years 1740-1748 is significant. The chief posts affected by the insurrection naturally made the greatest outlays, though it happened that these two posts, Detroit and Michilimackinac, were also the greatest trading centers, and hence there was more material to be bought at those posts. The latter post in 1746 had bills totalling more than 6,000 livres, which was at least one-third larger than the same item for the previous year. In 1747, her bills totalled more than 20,000 livres, this being by far the largest expenditure of any post for this item. Detroit, having practically no outlay for this item in 1746, expended over 8,000 livres in the following year. Most of these expenses were laid out for purchases of powder, lead, and food for the savages. Large amounts were also laid out in connection with numerous conferences with the Indians, especially in distributing presents to those of undoubted loyalty. Of course, Montreal had large expenses in these years in sending up armed forces with the trading convoys going up to the posts.

¹⁵²Beauharnois to Minister, Oct. 13, 1743, *Wisc. Hist. Coll.*, XVII, 439; see also *Doc. Rel. to the Col. Hist. of N. Y.*, IX, 1095 ff.

¹⁵³In 1746 Hocquart said he had been feeding at Quebec alone throughout the winter from 700 to 800 Indians. Hocquart to Minister, Quebec, Sept. 18, 1746, *Arch. Nat., Col.*, C¹A, 85:310-310^v. Again the same writer reports that he entertained ninety deputies of the Five Nations at Quebec for two months, which cost over 25,000 livres. La Corne's journey to the upper country in 1746 for the purpose of recruiting Indians for the war cost over 60,000 livres. Hocquart to Minister, Sept. 24, 1746, *Ibid.*, C¹A, 88:15-19^v.

¹⁵⁴Minister to Hocquart, Marly, April 27, 1741, *Ibid.*, B, 72:369-369^v.

¹⁵⁵In 1741 a bill for 6,000 livres is found for this item. *Ibid.*, C¹A, 76:181-185. Totals of extraordinary expense bills for the western posts fell from 15,000 livres in 1740 to less than 5,000 livres in 1741 and about the same in 1742. Most parties sent against the Chickasaw seem to have been sent in these last two years. The total of the bills of 1743 was less than 3,000 livres.

¹⁵⁶*Ibid.*, C¹A, 115:10^v-11^v.

¹⁵⁷Memoir of the King to Beauharnois and Hocquart, Versailles, Mar. 24, 1744, *Ibid.*, B, 78:326-327.

CHAPTER II

POPULATION AND INDUSTRY

THE TOTAL non-Indian population of Louisiana as estimated in 1746 was 8,830.¹ These people were located on the coast from Mobile Bay to New Orleans, and on the Mississippi from New Orleans to the Illinois country. Small settlements were also found on the Missouri, the Wabash, the Red, and the Arkansas rivers. Of this total, 2,500 were men (*habitants*, or soldiers), 1,500 were women and children, and 4,730 were negro slaves of both sexes, including mixed breeds. Most of the white population of Louisiana had originally come from Canada, though some, especially women, had come from France.²

New Orleans, the capital city of the province, contained several hundred inhabitants and boasted platted streets and a levee system. At La Pointe Coupée, Les Allemands (the German settlement), and farther up the river at Natchez, were other considerable settlements about which were large farming communities. Each of these places was fortified, New Orleans having forts both near the city and below near the mouth of the river. Other smaller posts with forts were at Natchitoches on the Red River, Fort Tombechee on the river of that name, and the Alabama fort on the Alabama River. These minor posts usually consisted of a small log fort surrounded with a palisade with four bastions. A store house and traders' quarters comprised the rest of the "post." A small cannon or two with a few mortars made up the artillery. On war footing such a post might be manned by twenty to forty men with a few officers.

A short distance above the mouth of the Arkansas River was located Arkansas Post. This establishment was the second oldest in Louisiana, and had been the center of Law's colonizing activities, but it was now reduced to a small garrison post of twenty soldiers or fewer. Near the fort were established a dozen *habitants*, with possibly as many slaves. They busied themselves with hunting the buffalo and bear, the meat of which they salted and sent down the river to the settlements below or sold in part to the garrison at the post. This place was noted for its bears' oil, which served as a substitute for butter in the western country. A small amount of tobacco was also raised, the surplus being sold to the traders or to the savages. In 1749, after a raid by the Chickasaw, the post was moved from the river bank some distance inland so as to secure the protection of the Arkansas Indians who lived nearby.³

¹Memoir on Louisiana, 1746, *Arch. Nat., Col.*, C¹³A, 30:256-257.

²Le Page Du Pratz, *Histoire de La Louisiane*, II, 299-300; Memoir on Louisiana, 1746, *Arch. Nat., Col.*, C¹³A, 30:271.

³For a description of the Arkansas post, see Memoir on Louisiana, 1746, *Arch. Nat., Col.*, C¹³A, 30:250; Le Page Du Pratz, *op. cit.*, 290-291; Le Mascrier's *Dumont*, II, 68. Dumont

Fort Prudhomme had been built on the Memphis Bluffs in 1682, and rebuilt as Fort L'Assomption in 1739 during Bienville's Chickasaw campaign. However, this place along with a small post at the mouth of the St. Francis River had been destroyed by Bienville in 1740. The next settlements were those in the Illinois country, where there were located five villages, containing in all at least a thousand French and half as many negroes.⁴ There was also a small settlement on the Missouri River, about ninety leagues from its mouth, containing perhaps a score of *habitants* who owned half as many slaves. Some corn was raised here, but the people were chiefly engaged in hunting and trading. A small settlement was also located on the Wabash at the site of Vincennes, where, it was estimated in 1746, there were forty *habitants* and five negroes engaged in raising corn and tobacco.⁵

The government was aware of the need for more settlers, but seems to have depended largely upon the natural increase rather than immigration. Settlers once located in Louisiana were rarely allowed to leave because of fear of weakening the colony by the loss of numbers. It should be mentioned that colonists often would gladly have returned to the homeland, and allowing some to leave would only have served to increase the discontentment of those remaining.⁶ The importation of slaves was minimized, only one shipload coming in during the decade of the 1740's. This was due to the fact that the number of slaves was already very high in proportion to the white population.⁷ Early marriages were encouraged, the minimum ages of eighteen for men and fourteen for women having been fixed in 1748. At this time also, some additional settlers were being sent over from France, these being composed chiefly of convicted salt smugglers.⁸

Canada was, of course, much more populous than Louisiana. A census was ordered to be taken in 1745, but the result is not found among the documents.⁹ A note on Pouchot's manuscript refers to a census taken about 1750 which places the total population at 88,000.¹⁰ Most of the

says there was no fort there but only a little "corps de garde" and store house. For plans of the Tombechee fort, see the *Dumont Ms.*, 256. See also testimony of one Lantinac, French deserter, on the Alabama forts, in *South Carolina Council Minutes*, Apr. 14, 1747, 80-82, *Public Record Office, Colonial Office*, 5, v. 455. The same authority gives the population of New Orleans as 500, including fifty soldiers stationed at the fort, while the male population of Mobile was estimated at one hundred, exclusive of three companies of soldiers.

⁴The memoir of 1746 cited above puts the number of *habitants* as 200-300, both figures being used in different statements. The number of black slaves is put at 600. Father Vivier gives the total number of whites as 1,100, and that of slaves as 360, including both red and black. Father Vivier to Father —, June 8, 1750. Thwaites, *Jes. Rel.*, 69, 145-147. The Illinois villages were Kaskaskia, Prairie du Rocher, St. Philippe, and the Cahokia village. Some few *habitants* were located near Fort Chartres, and at Sainte Genevieve, on the Missouri side.

⁵Memoir on Louisiana in 1746, *Arch. Nat., Col.*, C¹³A, 30:252.

⁶Minister to Bienville, Jan. 19, 1742, Versailles, *Ibid.*, B, 74:622-623v. Bienville had requested that settlers from Martinique be allowed to come to Louisiana, paying for their passage with slaves or goods, but the minister seems to have disapproved of this proposition.

⁷*Ibid.*

⁸Memoir of the King for Instruction to M. Michel, Dec. 9, 1748, *Ibid.*, B, 87:28-28v.

⁹*Edits, Ordonnances*, II, 390.

¹⁰It is interesting to note, however, that Pouchot erroneously put it at 30,000. Pouchot, *Memoir on the Late War*, II, 45.

Canadian population was centered at Quebec and Montreal, with smaller settlements along the river between these points.

Of the western settlements, Detroit was the most considerable, having a population of about 1,500 French, according to one estimation, though this seems somewhat high.¹¹ There were said to be as many farmers there as traders, but the chief business was always the fur trade, which De Noyan, the commandant, estimated in 1742 as being worth 150,000-200,000 livres yearly.¹² The same writer tells us that Montreal merchants held more mortgages on Detroit property than the whole town was worth. In addition there was a considerable French settlement at Michilimakinac, which also had a large fur trade, but we have no estimation of the number of people there. A small number of inhabitants was also found near each of the posts of River St. Joseph, the Miami, and the Wea.¹³ It is doubtful if more than a very few were located at any of these, the same being true of *La Baye* located at Green Bay on Lake Michigan. The more remote posts such as Chequamigon and La Vérendrye's posts were merely trading stations.

The houses of the western settlers were very simple in construction, being usually built of notched logs, or else of upright timbers set in the ground. The cracks were stopped with clay and sticks to keep out the cold. The floor was commonly made of dirt, though sometimes wood or stone was used. For heating and cooking there was the fireplace with a stone hearth. There was no glass for the windows, and the roof was usually of wooden shingles or "clap-boards" fastened on with wooden pins.¹⁴ The more wealthy inhabitants built their houses of hewn timbers or of stone. The interiors were usually plastered or "white-washed" with lime. Furniture was scarce and commonly hand-made.¹⁵

Women outnumbered men in Canada, especially in the east, though the reverse was true in the western settlements. We have seen that men far outnumbered women in the whole of Louisiana. Kalm says: "They told me, that they reckon four women to one man in Canada, because annually several Frenchmen are killed in their expeditions, which they undertake for the sake of trading with the Indians."¹⁶ Pouchot gives a

¹¹Memoir on Louisiana in 1746, *Arch. Nat., Col.*, C³A, 30:270. De Noyan placed the number at one hundred resident families. This does not count the large floating population of traders. De Noyan to Minister, Detroit, Aug. 6, 1740, *Wisc. Hist. Coll.*, XVII, 326-327.

¹²See chapter on Fur Trade, below.

¹³These posts were located near the present towns of Niles, Michigan, Ft. Wayne, Indiana, and Lafayette, Indiana, respectively.

¹⁴Nails were very scarce in the western country, though they are mentioned at times. In the expense bill drawn at De Noyelle's order at Michilimakinac, Apr. 22, 1747, and furnished by M. Janisse we note the following: "500 nails @ 8 l. per C. -40 l." *Arch. Nat., Col.*, C³A, 117:345. Also in a bill of June 19, 1747, furnished by Rupellais de Gonnéville we find this item: "500 roofing nails @ 7 l./C. -35 l." *Ibid.*, C³A, 117:400. These are the only instances of nails mentioned in the expense accounts of Michilimakinac. Nails are also mentioned in the Account Book of the Detroit Mission, Thwaites, *Jes. Rel.*, 60, 245-253. Note the following account: "I owe François Campeau 500 large nails, at 45 sols A hundred. I owe the same 800 shingle-nails, at 10 sols a hundred; also 200 shingle-nails, at 20 sols A hundred; . . . and 300 large and 100 medium-sized nails." p. 249.

¹⁵The description of houses given above is based on Pouchot's account of houses at Niagara, vol. I, 52-53, and Kalm's account of houses of the habitants at Ft. St. Frederic, *op. cit.*, II, 14.

¹⁶Kalm, *op. cit.*, III, 41-42.

favorable account of the deference paid to women by men. He described the women as being modest, of comely figure, vivacious in spirit, and full of intrigue. "It is only through them that their husbands procure employment"¹⁷ Neither of these observers failed to mention the good manners of the women, as well as their ability to dance. As to their dress, Kalm observes that they always wore their hair "curled and powdered and ornamented with glittering bodkins and aigrettes. Every day but Sunday they wear a little neat jacket, and a short petticoat which hardly reaches half the leg, and in this particular they seem to imitate the *Indian* women. The heels of their shoes are high, and very narrow, and it is surprising how they walk on them"

As to their prowess as housekeepers, however, he was not so full of praise, noticing that they were "rather remiss in regard to the cleaning of the utensils, and apartments, for sometimes the floors, both in town and country, were hardly cleaned once in six months, which is a disagreeable sight to one who comes from amongst the *Dutch* and English, where the constant scouring and scrubbing of floors, is reckoned as important as the exercise of religion itself." He said that rather than sweep the floor, they were in the habit of wetting it with water to keep down the dust.¹⁸ Though this description is of the homes of the people in eastern Canada, it would doubtless apply to the people and homes of the western country as well, especially in the older settlements such as the Illinois. The men dressed much after the Indian fashion, wearing trousers and moccasins of deerskin, a cloth shirt, and the Mackinaw blanket, or *capot*, about the shoulders in cold weather.

In the western outposts, the food of the whites was the same as that of the natives—chiefly fish, game, and Indian corn, though sometimes Illinois flour and bear's grease were added to the diet. Liquor was used freely when it could be had, especially wine and brandy. Kalm says three meals per day were customary. The upper classes used brandy, chocolate, or coffee for breakfast, but no tea. The mid-day meal as described by Kalm consisted of a variety of dishes—fresh meats and salads, wine or spruce beer, wheaten bread, with berries, cheese, or nuts either fresh or preserved for dessert. On fast days fish, eggs, and milk prepared in various ways were used. He says both the French and English used much less sugar than his own people (the Swedes). The evening meal was said to be practically the same as the noon-day meal. The country people, according to Kalm, contented themselves with eating bread, and saving their poultry, eggs, butter, cheese, and flesh, for sale in the towns, the proceeds from which were used to buy liquor and clothing.¹⁹

¹⁷Pouchot, *op. cit.*, II, 45-46.

¹⁸Kalm, *op. cit.*, III, 55-57.

¹⁹*Ibid.*, 184 ff. In another place, he says the poor people ate onions almost universally, and that the use of tobacco was just as common. In my study of the expense accounts I have

The health of the people in Louisiana was none too good, according to the information available. During this period, smallpox, mumps, and "la grippe" were prevalent in the whole colony of Louisiana. Smallpox was brought over with a shipload of slaves in 1743, and though not as deadly as the epidemic of 1734, it was nevertheless a serious plague. As to mumps, it was thought to have come in with some soldiers in 1740, while "la grippe" is thought to have come from the Illinois. Many people died of the latter, according to one report. Children during this time were said to have been afflicted with a serious disease of the gums.²⁰ In 1749 Vaudreuil reported that an epidemic of sickness had raged in the Illinois for two years and had so seriously affected the inhabitants as to be responsible for the small wheat crops in that region during those years.²¹ It will be seen that in the Chickasaw campaign of 1739-1740 sickness among Bienville's troops was blamed in part for the poor showing made against the enemy.²²

As to the health of the Canadians, Pouchot described them as a hardy and robust people.²³ Kalm observes, however, that Frenchmen born in France were said to live longer than those born in Canada. He was also told that they could do more work and stand more hardships than the Canadian-born French. Rheumatism and "pleurisies" were common among both the Canadians and the Indians. Venereal disease was very common, and worms were found, according to Kalm, more often in Canada than in the New England colonies. Fevers, however, were less common, though "ship-fever" was often brought in.²⁴

In general, the people seem to have been of loose morals, though devoted to the church and their religion. The traders and *coureurs de bois* were perhaps the worst element, though the church attempted to hold them to account when they were in the civilized communities.²⁵ In the Illinois, Father Vivier was poorly impressed with the religious devotion of the French, especially of those who were traders in *eau de vie* at his mission.²⁶ Kalm says the French were certainly more devout than the English. Besides having morning and evening prayer on the ships as the English did, he said they had extra prayers on Sundays which the English did not have. At Fort St. Frederic all soldiers were gathered for morning and

never seen listed any foodstuffs excepting corn, flour, game, meat, and bear's grease. Of course, tobacco, wine, and brandy were common. It is true that most of these issues were made to savages, but many were also made for use in post garrisons. Dairy products, vegetables, fruits, and the like must have been supplied by the farms, especially at Detroit, Michilimackinac, and the Illinois.

²⁰"A Chapter in Colonial History," *La. Hist. Quart.*, VI, 4, 567.

²¹Vaudreuil to Minister, Aug. 26, 1749, *Arch. Nat., Col.*, C¹³A, 33:58.

²²For an account of this campaign and its difficulties, see Caldwell, Norman W., "The Chickasaw Threat to French Control of the Mississippi in the 1740's," *Chronicles of Oklahoma*, XVI, No. 4 (December, 1938), 465-492.

²³Pouchot, *op. cit.*, II, 45.

²⁴Kalm, *op. cit.*, III, 8-9, 32-34.

²⁵Pouchot, *op. cit.*, II, 46.

²⁶Father Vivier to Father ———, Nov. 17, 1750, Thwaites, *Jes. Rel.*, 69, 200-203.

evening prayer.²⁷ We have seen that the Recollets regularly ministered to the army.

Agriculture in the west may be studied best in the Illinois country. In 1716, the king had issued an edict redistributing lands held by private individuals, with the end in view of forcing landholders to give more attention to the cultivation of their lands. Large concessions formerly granted were to be reduced in size, and the timber reserves left to the *cessionnaires* were to be limited to their actual needs. The lands so recovered were to be regranted in plots of two to four *arpents* of frontage by forty to sixty in depth. Each new concession was to be held in free tenure by the individual or his heirs, provided also that the *cessionnaire* should agree to submit to any *seigneurial* rights that might in the future be established. An individual could sell land only after he had cultivated at least two-thirds of it, and the king reserved the right to take any timber needed for the construction of forts, docks, wharves, ships, or other uses.²⁸ On the basis of this edict, all land grants were made in the decade under consideration.

In the Illinois, most of the concessions were held under grants made in the time of the Mississippi Company. These were not disturbed except possibly in 1743 when a new common for the pasturage of cattle and horses was established on the peninsula formed by the Kaskaskia and Mississippi rivers. This infringed somewhat upon some existing grants. Cattle and horses were to be kept there in common by the villagers. It was also used as a timber reserve for the use of the people.²⁹

If agriculture did not prosper in the Illinois, it was not from lack of verbal encouragement by the royal government. In 1744, the minister pointed out that too much attention was being given to mining and trading, while agriculture was being neglected.³⁰ De Bertet seemed more interested in development of the mines than in agriculture, an attitude which brought the minister's censure upon him. At the end of the war with the English, plans were made for increasing land cultivation by sending convicted salt smugglers (*faux sauniers*), whom De Bertet had requested for working the mines.³¹ In line with this policy to encourage agriculture in the Illinois, Vaudreuil proposed that the further importation of slaves to that region be prohibited. He reported that the large number of slaves there tended to cause the whites to idle and to neglect their work. He admitted, however, that a few might have to be sent up to keep the Illinois *habitants*

²⁷Kalm, *op. cit.*, III, 43-44.

²⁸*La. Hist. Quart.*, XIV, 3, 346-348. The French *arpent* was equal to 192.75 feet, English measure.

²⁹*Ordonnance* of Vaudreuil and Salmon, Aug. 14, 1743, in Breese, *op. cit.*, app. F., 294-296. This common was used for breeding and rearing stock. The work stock were kept in a common about the village.

³⁰Minister to De Bertet, Versailles, Jan. 1, 1744, *Arch. Nat.*, Col., B, 78:8-8^v.

³¹Minister to De Bertet, Versailles, Dec. 23, 1748, *Ibid.*, B, 87:33-33^v. De Bertet (some put it De Bertel or Berthelot) was commandant in the Illinois from 1742 to 1749, in which year he died.

from raising serious objections in case new slaves should be received in Louisiana.³² (The only slaves received in the 1740's were the shipload which came over in 1743.)³³ The minister having replied favorably on this subject, the governor and intendant in 1745 forbade negroes to be sent up to the Illinois, a step which was approved a year later by the minister, who then ordered an ordinance to be promulgated on the subject.³⁴ Accordingly, the importation of slaves into the Illinois was definitely forbidden.

Farming methods were crude. The wooden plow, pulled by oxen, was used to break the ground, while the old style harrow, shaped like an "A," and also of wood, was used to pulverize it. Crude carts took the place of wagons, these also being of wooden construction. Corn and wheat were the chief crops, though oats and hops were also grown. There were also the common fruits and vegetables of France and Canada, such as onions, pumpkins, cabbages, and others. Father Vivier reported that the country produced all crops necessary to life.³⁵ He says horses, pigs, and cattle were raised in considerable numbers.³⁶ As to the yield of wheat in the Illinois, Father Vivier said it was only five to eight fold. He charged this to the careless methods of tilling the soil, reporting that some land had been cultivated for thirty years without the use of manure. It was also his opinion that the river fogs and excessive heat damaged the wheat. Corn, however, was said to grow exceedingly well, yielding more than a thousand fold—a figure which seems a bit high, even to those who have had experience in raising corn on rich Mississippi *alluvium*. Indian corn, the food of the savages, was used to feed cattle, hogs, and slaves. Father Vivier estimated that the country produced three times as much food as was consumed there yearly.

Illinois flour as exported to New Orleans and elsewhere represents the best gauge by which to measure the success of agriculture in the Illinois country. The prices and demand for this product seem to have been good,

³²Vaudreuil to Minister, New Orleans, Dec. 6, 1744, *Ibid.*, C¹³A, 28:248-249.

³³"A Chapter in Colonial History," *La. Hist. Quart.*, VI, 4, 663. For further information on this subject, see Vaudreuil to Minister, New Orleans, Aug. 25, 1743, *Arch. Nat., Col.*, C¹³A, 28:85; Minister to Vaudreuil and Salmon, Versailles, Jan. 13, 1744, *Ibid.*, B, 78:13.

³⁴Vaudreuil and Le Normand to Minister, Jan. 4, 1745, *Ibid.*, C¹³A, 29:7^v-8; Minister to Vaudreuil and Le Normand, Versailles, Oct. 9, 1747, *Ibid.*, B, 85:14^v; same to same, Apr. 30, 1746, *Ibid.*, B, 83:20.

³⁵Father Vivier to Father ———, June 8, 1750, Thwaites, *Jes. Rel.*, 69, 142-145. Wine was very little produced according to one authority. Memoir on Louisiana in 1740, *Arch. Nat., Col.*, C⁹C, 1:138. I have limited this discussion to agriculture in the upper country, and have not attempted to discuss farming in lower Louisiana.

³⁶We often find mention of Illinois livestock in the western country. Sieur Charly, the farmer of the Miami post, was able to lend the government twenty-four horses in July, 1747, to help make the portage near that post on the occasion of a party of Indians being led to Detroit for conferences. See expense account drawn by Sieur Charly on July 3, 1747, totalling 2,007 livres, 10 sols, *Arch. Nat., Col.*, C¹³A, 89:360^v-361. These horses doubtless came from the Illinois. It is noticeable also that the expense accounts of the Miami post, the Wea post, and the post of River St. Joseph show more mention of purchases of beef and bacon than do those farther north. Here are the prices paid for livestock at these posts: oxen, 150 livres to 220 livres, cows, 200 livres, calves, 30 livres, large swine, 100 livres. For a description of how cattle and horses were raised in a semi-wild state on the "peninsula" called "La Pointe de Bois," see Father Vivier to Father ———, Nov. 17, 1750, in Thwaites, *Jes. Rel.*, 69, 217-222. The Memoir of 1746 gives the total of livestock in Louisiana as 10,000. *Arch. Nat., Col.*, C¹³A, 30:256 ff.

and the Illinois country was fast becoming the granary of Louisiana if not of all New France. As early as 1735, the king's troops in Martinique and San Domingo were supplied with Illinois flour.³⁷ By 1740, several posts of the western country, as well as New Orleans, were supplied partly or wholly with flour from this section.³⁸ In 1741 the descending convoy brought to New Orleans 125,000 lbs. of flour.³⁹ In 1742, however, continued heavy rains during the harvest did such great damage to the Illinois grain that there was hardly enough to feed the *habitants* and the garrison there.⁴⁰ For some reason, the crop of the following year seems to have been poor.⁴¹

The winter of 1744-1745 was very mild,⁴² and the Illinois wheat crop seems to have been good, but there was difficulty in disposing of the crop. A large shipment of flour had come over from Rochefort that year on the king's ship. Then, too, a Dutch merchantman loaded with flour put into port at New Orleans, on excuse of seeking a mate, and the captain asked for permission to trade. This was finally refused, but it was said the Illinois men could hardly sell their flour.⁴³ In spite of the threatened revolt of the Illinois Indians in 1747, the harvest was said to have been good. In 1749 the minister, while considering the return of the Illinois country to the Canadian government, was careful to safeguard the export of Illinois flour to the southward, and encouraged an increase in its production by the promise that some "preference in the sale of this flour at New Orleans" should be considered.⁴⁴ All in all, the grain crop in the Illinois was important enough to play a large part in the economic and political life of New France, and especially of Louisiana.

The Canadian government was very anxious to increase the agricultural growth and development of the country. In 1743 an ordinance was

³⁷In that year 3,000 *quintals*, or hundredweights, were bargained for at 13 livres, 10 sols, per cwt., including the barrels and cost of delivery to the said posts. Minister to Diron D'Artaguet, Versailles, Sept. 20, 1734, *Arch. Nat., Col.*, B, 62:81-82^v. Flour rose constantly in price throughout the decade at the posts of the western country. In 1740, according to expense accounts, it averaged 20 livres per cwt. at Michilimakinac. In that same year, it brought 50 livres at the Miami, this due to scarcity. By 1745 it had dropped to 18 livres there, but in 1747 it was back to 30 livres. Corn ranged from 10 livres to 30 livres per *minot*. As was the case with livestock, flour seems to have been more plentiful at the Wea post, at River St. Joseph, and at the Miami than at Detroit or Michilimakinac. At least, it was issued more often. The *minot* according to an editor's note in Kalm was equal to two English bushels. Thwaites estimated it at three, which is certainly too high. On the basis of 39 *livres* it would equal 1.072 bushels.

³⁸Memoir on Louisiana, 1740, *Arch. Nat., Col.*, C¹³A, 26:192^v. That year was one of abundant harvest. La Loere Flaucourt to Salmon, July 29, 1740, *Ibid.*, C¹³A, 26:192^v.

³⁹Bienville to Minister, Sept. 30, 1741, New Orleans, *Ibid.*, C¹³A, 26:97-106.

⁴⁰Bienville to Minister, Feb. 4, 1743, New Orleans, *Ibid.*, C¹³A, 28:33^v-34.

⁴¹Vaudreuil to Minister, New Orleans, May 10, 1744, *Ibid.*, C¹³A, 28:222-222^v. Only a small amount of flour was said to have come down to New Orleans that year by the convoy. A small amount was sent to Mobile for use of the sick only. Vaudreuil to Loubois, Aug. 2, 1744, *Vaudreuil Mss.*, 53.

⁴²Kalm, *op. cit.*, III, 247.

⁴³Le Normand to Minister, New Orleans, Apr. 8, 1746, *Arch. Nat., Col.*, C¹³A, 30:144^v-145. The shipment to New Orleans that year amounted to 100,000 lbs. Vaudreuil to Minister, Mobile, Apr. 12, 1746, *Ibid.*, C¹³A, 30:57.

⁴⁴Minister to Vaudreuil, Fontainebleau, Nov. 4, 1748, *Ibid.*, B, 87:15-15^v. Under date of June 22, 1748, we find record of a sale in New Orleans of 29,841 lbs. of Illinois flour "delivered this day," this evidently being a part of the 1747 harvest. Records of the Superior Council, *La. Hist. Quart.*, XIX, 4, 1099. The harvest in the Illinois in 1748 was very bad. D'Auberville to Minister, New Orleans, May 9, 1749, *Arch. Nat., Col.*, C¹³A, 33:115-116.

issued by the king reforming the system of land grants, and intrusting future grants to the governor and intendant.⁴⁵ This was followed in 1747 by an ordinance which was intended to increase the size of farms so as to encourage more extensive cultivation. It was provided that no land-owner might build a house and homestead on any plot containing less than forty-five square *arpents* in area.⁴⁶ Four years later, another ordinance was issued forbidding country people from migrating to the towns without written permission—this to keep them on the land in the interest of agriculture. Public works (work on the Quebec fortifications especially) were enticing them to leave their farms.⁴⁷

The king was especially interested in the development of a strong agricultural community at Detroit, this the better to control the Indians as well as to reduce expenses of administration by the production of food for the garrisons there and at other places near at hand. In 1742, orders were given to set up a "sedentary command" at that post, consisting of a permanent resident commandant, devoted to the encouragement of agriculture and settlement of the post in particular, a deputy of the intendant, an almoner, an interpreter, and a surgeon. The support of these officials as well as of the *corps de garde* at the post was to be based on the proceeds from the sale of *congés* for the fur trade at the post. An annual sum of 1,500 livres was also to be set aside for Indian presents. The transportation of supplies, clothing, and other goods necessary for the support of these officers and the garrison was to be charged as a burden to the *voyageurs* coming up each year for the trade.⁴⁸ M. Céloron was sent there to assume the new command in 1742, but soon asked to be recalled on account of bad health. In 1743 Baron Longeuil succeeded him, but the governor abolished the new system and reverted to the old, claiming that such an important post should remain as a reward to those officers who distinguished themselves in the military service.⁴⁹ Faced with the outbreak of war with the English, the minister agreed to this change, and the plans for the development of the Detroit settlement were laid aside until after the war.⁵⁰

Though a few settlers went to Detroit in 1743 on the basis of the *gratis congés*, this number was necessarily small. In 1749 after the return

⁴⁵*Edits, Ordonnances*, I, July 17, 1743, 572-574.

⁴⁶*Ibid.*, Apr. 28, 1745, 585-586. This ordinance did not apply to town dwellers. Bigot in 1749 ordered the destruction of certain houses built in defiance of this ordinance. *Ibid.*, June 25, 1749, II, 200.

⁴⁷*Ibid.*, II, Apr. 20, 1749, 399-400.

⁴⁸Free trading *congés* were to be issued to settlers who would come there. They were then to remain permanently on land granted them. Memoir of the King to Beauharnois and Hocquart, Fontainebleau, Apr. 30, 1742, *Arch. Nat., Col.*, B, 74:503-511. See also Memoir of the King to Beauharnois and Hocquart, May 31, 1743?, *Ibid.*, B, 76:436^v-437.

⁴⁹Beauharnois to Minister, Sept. 17, 1743, Quebec, *Ibid.*, C¹A, 79:110^v-111^v. Pierre Joseph Céloron, Sieur de Blainville (1693-1759). Paul Joseph Le Moyne de Longueuil, fourth baron (1701-1778), was a brother to Bienville and Iberville.

⁵⁰Memoir of the King to Beauharnois and Hocquart, Versailles, Mar. 24, 1744, *Ibid.*, B, 78:325^v-326. The governor and intendant opposed the new system, claiming it would tend to encourage the commandant in idleness and sloth. Beauharnois and Hocquart to Minister, Quebec, Oct. 12, 1744, *Ibid.*, C¹A, 81:29^v-30.

of peace, the king re-established the system as set up in 1742 in all its essential parts. The Sieur Céloron was again given the command at a salary of 3,000 livres per year, with an extra gratification of 1,200 livres. The rank of major was then made an incident to this command, as had already been done in the case of the Illinois post. The minor posts near Detroit were placed under the jurisdiction of this same officer.⁵¹ As an encouragement to settlers, the government offered to those willing to come flour rations for two years, as well as free tools with which to clear the lands. The settlers were asked to settle in villages for their mutual protection.⁵²

In the spring of 1749, the king's engineer, M. Léry, accompanied a group of settlers to Detroit. The party went along with the trading convoy and the new temporary commandant, M. de Sabrevois. Céloron, who was then on his Ohio expedition, was to go up as soon as he returned. At Montreal they received seeds of fruits and grains of various kinds, as well as some grape vines which had been prepared there.⁵³ Forty-six settlers had already been sent there the year before, all said to have been from the Montreal district. Five thousand livres were also granted by Bigot to Father La Richardie to complete the rebuilding of his mission which had been destroyed in the Indian rebellion of 1747.⁵⁴

From the beginning this new settlement was beset with troubles. In the first place, the colonists refused to obey the ordinance requiring them to settle in villages located close together, and instead went out wherever they pleased, seeking the best soils.⁵⁵ Father Bonnécamp reports that when he stopped there in 1749 on the return from the Ohio with Céloron's party, he found most of these settlers had "contented themselves with eating the rations that the king provided." Others he said had left the place, probably to follow the fur trade.⁵⁶ Some difficulty existed concerning the titles to the lands about Detroit which were still claimed by Cadillac's heirs,⁵⁷ but the poor quality of the settlers sent would seem to have accounted for the meager results of this attempt to increase the population there.

The account book of the Jesuit mission at Detroit in 1740-1741 shows

⁵¹Minister to La Jonquière and Bigot, Marly, May 14, 1749, *Ibid.*, B, 89:76-76v. The object of the king was chiefly to control the savages and to prevent in the future outbreaks such as that of 1747. The establishment of a strong French settlement at Detroit was thought to be the surest way to do this. It was not intended to extend the scheme to Michilimackinac on account of the poor soil there. Minister to La Jonquière, Versailles, May 19, 1750, *Ibid.*, B, 91:36-36v.

⁵²Minister to Bigot, Apr. 30, 1750, *Can. Arch. Rep.*, 1905, 1, 133.

⁵³Journal of M. de Léry, May 26-June 6, 1749, in *Queb. Arch. Rep.*, 1926-27, 334 ff. Chaussegros de Léry was a famous engineer, who built the fortifications at Quebec. The Sabrevois brothers are confusing. They were Clement Sabrevois de Bleury (1702-81), and Christophe Sabrevois Sermonville (1701-?).

⁵⁴La Jonquière and Bigot to Minister, Quebec, Oct. 5, 1749, *Wisc. Hist. Coll.*, XVIII, 30-32.

⁵⁵*Ibid.*

⁵⁶Bonnécamp's Journal, Thwaites, *Jes. Rel.*, 69, 189-193. Father Bonnécamp was professor of hydrography at the Jesuit college at Quebec.

⁵⁷*Mich. Pion. and Hist. Coll.*, 34, 213-214. This also illustrates how difficult it was to colonize under a paternalistic system. The English colonies thrived because personal initiative was predominant. Quite the reverse was true in Canada where the government regulated everything closely.

that cleared land sold there at 20 livres per *arpent*, which incidentally was the cost of clearing the land. The Jesuits paid for both land and labor by barter of farm products.⁵⁸ Land was leased there in the year 1743 by the Jesuits, seed and farming implements as well as work animals being furnished. The crop was shared in halves, excepting Indian corn, all of which the tenant kept. In return, the tenant did carting and plowing for the Jesuits, and he could use their animals for his own carting. His wife also did the laundry for the mission.⁵⁹

According to Kalm, the system of allowing a third of the land to lie fallow was used farther east, and this was probably necessary at Detroit,⁶⁰ especially after fields had been cultivated for some years. The yields must have been poor, judging from the Jesuits' account book for the year 1750.⁶¹ Still, the high prices prevailing must have made agriculture at Detroit profitable for those interested in it. It is safe to assume that the purchases of the government at the posts during this decade were adequate to keep the demand lively.

The prices of grain varied greatly according to the demand of the post for it. Thus in 1740, Indian corn was bought at 15 livres per *minot* at Detroit by the government, it probably being more dear in the private trade.⁶² In 1744, however, it brought only 7 livres per *minot* according to Detroit expense accounts. The war and the Indian rebellion a few years later caused it to soar again. At Michilimakinac, there was a poor harvest in 1741 and 1742 which caused very high prices—much above those of 1740. Thus corn in 1740 sold at 13 livres per sack there, and in 1741-1742 at 20 to 25 livres per sack. By 1743 it was back to 15 livres and fell to about 11 livres even during the early years of the war. During 1747 when the Indian revolt occurred it rose to 20 livres again. Prices at the more distant posts, such as the Wea, the Miami, and *La Baye* were always higher due to transportation expense. In any case, prices at the western posts were at least two times as high as at Quebec.⁶³

It is doubtful if livestock were kept at Michilimakinac. There seem to have been a considerable number of cattle in the neighborhood of Detroit,

⁵⁸Thwaites, *Jes. Rel.*, 69, 245-253.

⁵⁹The following seed and equipment were issued to the tenant to be returned to the landlord at the end of the six years lease, all losses to be made good: 6½ *minots* wheat, a new plow complete with its wheels, a cart, with almost new wheels, a new sled, two Illinois oxen (bison?), one Illinois cow, two mares worth 80 livres each, and two cows and a yearling heifer bred at Detroit. This whole outlay was valued at 400 livres. Later three extra Illinois heifers were supplied to the tenant to replace three lost. Two of these had been killed by accident, one by falling off a cliff, a second by the dogs of an Indian, and the third had been requisitioned by the post commandant to feast some Indians. Thwaites, *Jes. Rel.*, 69, 253-257.

⁶⁰Kalm, *op. cit.*, III, 157-158.

⁶¹Thirty-seven *minots* of wheat? (the word is blank in Ms.), six *minots* of oats, and three-fourths *minot* of peas were sown that year. The harvest showed one hundred and fifty *minots* of wheat, sixteen *minots* of oats, and two *minots* of peas. There were also forty *minots* of Indian corn, and 1,600 onions raised, as well as some garlic. Thwaites, *Jes. Rel.*, 70, 55.

⁶²The Jesuit account book shows that 18 livres per *minot* were received. *Ibid.*, 69, 247. The price was high that year due to consumptions for the Chickasaw campaign.

⁶³The following prices for grain are quoted at Quebec in 1742: wheat or corn, 3 livres, 10 sols, to 4 livres per *minot*; peas, 4 livres to 4 livres, 10 sols, per *minot*; flour, 14 livres per *quintal* (cwt.). Hocquart to Minister, Quebec, June 11, 1742, *Arch. Nat., Col., C11A*, 77:277-283. Kalm gave the following as prices of grain at Montreal in September, 1749: wheat or corn, per *minot*, 3 livres (1 *écu*); peas, same as wheat; oats, per *minot*, 15-20 sols, "lately," 26-30 sols. *Op. cit.*, III, 299-301.

if one can judge by reference to them in the expense accounts.⁶⁴ On the other hand, cattle are not mentioned at Michilimakinac in the expense bills, while there is no reference to hogs at either post.⁶⁵ Bacon, though sometimes mentioned in the expense accounts, is uncommon, especially at Detroit and Michilimakinac.⁶⁶ In 1750 we find mention of the sending of an ass from France for breeding purposes.⁶⁷

Sheep are not mentioned in the documents of this time concerning the western country, though they were quite common in the St. Lawrence country according to Kalm. Experiments to determine the quality and suitability of the wool from the neck of the bison were conducted in France with the view of using this product for French manufactures. Samples of this wool were requested both from Canada and from Louisiana by the minister, at the instance of the comptroller general of finances, M. Machault. It was thought that this wool would prove suitable for the manufacture of stockings and hats. M. Michel, *ordonnateur* of Louisiana, reported it unfit for the manufacture of stockings in any case, and he thought it could not be used in the hat manufactures unless some coarser fiber were added to it. The minister thought that the small amount of wool to be gotten from each beast would not justify its being killed for that purpose. It was also proposed that the dependability on the buffalo as a source of wool was not sure.⁶⁸ La Galissonnière saw in the great hordes of bison an inexhaustible supply of meat and wool which would play an important part in the economy of the west in the future. In addition he thought the species could be domesticated as work animals if they were caught young and gelded. This was doubtless done to some

⁶⁴See expense account, dated Oct. 17, 1747, for cattle furnished by Jacques Boucher at Longueuil's order. The number is not given, but the bill was scaled down by Hocquart from 316 livres to 136 livres. *Arch. Nat., Col., C¹A*, 117:143-143^v. On Oct. 22, 1747, Charles Courtois furnished Longueuil eight beehives, corn and other produce amounting to 3,871 livres, 16 sols. This was scaled down by Bigot to 3,710 livres, 16 sols. *Ibid.*, *C¹A*, 117:118. Dumont says cattle had been secured in the Illinois at 200 livres each for Bienville's Chickasaw campaign of 1739-1740, while horses cost 150 livres each. *Dumont Ms.*, 289. The number of cattle on the farm of the Jesuits mentioned indicates cattle were rather easy to get, either of French breed, or of Illinois stock (bison). There is evidence, however, that the French colonies imported beef and salted meats from foreign countries, though these products more than likely went to the sugar islands rather than to Canada or Louisiana. Thus the decree of August 27, 1738, supplementing a decree of June 18, 1737, allowed French ships to carry Irish beef, salt meat, salt salmon, butter, fats, and candles to the French colonies, this to be permitted for three years. *Recueils de Règlements, Edits, Déclarations et Arrêts, Concernant le Commerce*, etc., 111-112. Similar decrees in 1740 and 1741 applied to the importation of salt meat from the Cape Verde Islands and Denmark. *Ibid.*, 113-116. Another decree in 1741 went so far as to allow the export of salt from France to the Cape Verde Islands free of export duty, the salt to be used in the meat industry. *Ibid.*, 116, 120.

⁶⁵The only mention of livestock in the Michilimakinac bills is one instance dated June 15, 1747, in which one Lavoine Chevalier furnished a horse valued at 160 livres for an Indian feast. *Arch. Nat., Col., C¹A*, 117:383.

⁶⁶Hogs are mentioned as being bought only at the River St. Joseph post, according to the expense accounts studied. Hocquart allowed 100 livres for large hogs. May 13, 1746, *Ibid.*, *C¹A*, 117:459. Kalm gives the following as prices that were paid for farm animals at Montreal in September, 1749. These prices are supplied by M. De Couange, Montreal merchant: horse, "middling" quality, 40 livres, good, 100 livres; cow, 50 livres; sheep, 5-6 livres; hog, (one year old, 150 lbs.), 15 livres. The merchant told Kalm that this was a fair-sized hog, but that he had heard of one among the Indians which weighed 400 lbs.

⁶⁷Minister to Bigot, Feb. 3, 1750, *Can. Arch. Rep.*, 1905, 1, 130.

⁶⁸Contrôleur General to La Galissonnière, Versailles, Mar. 24, 1748, *Arch. Nat., Col., C¹A*, 92:368-368^v; Minister to Hocquart, Apr. 1, 1748, *Can. Arch. Rep.*, 1905, 1, 108; Minister to the Contrôleur General, Versailles, Apr. 1, 1748, *Arch. Nat., Col., B*, 88:41^v; Apr. 17, 1748, *Ibid.*, *B*, 88:51; Minister to M. Michel, Dec. 16, 1748, *Ibid.*, *B*, 87:32^v; Minister to Bigot, Versailles, Apr. 11, 1749, *Ibid.*, *B*, 89:10-10^v; Michel to Minister, Aug. 6, 1749, *Ibid.*, *C¹A*, 34:108-109.

extent, as the above accounts of the "Illinois cattle" at Detroit seem to indicate.⁶⁹ In their wild state, he thought they could be of great use if rounded up in parks for slaughter, the meat to be salted down and exported in competition with Irish beef.⁷⁰

Besides agriculture and the fur trade, the only industry of any significance in the western country was mining, which consisted chiefly of lead mining in the Illinois country. The mining industry in the Illinois had been put in the hands of the Sieur Renault and his associates under the Company of the Indies. In 1740 Renault surrendered his concession, finding himself in debt to the amount of 158,665 livres. His rights reverted to the king, and two other persons were then sent to work the mines. According to the report of 1741, the mine then worked was located on the Missouri side some fifteen leagues from Kaskaskia, which would place it near the Meramec River. At this time also the Galena deposits were being investigated. Enough lead was produced to supply the needs of the posts of the western country as well as to export some to New Orleans and even to France. When this mine was worked to capacity it was said to have yielded 40,000 lbs. annually.⁷¹

Though the minister asked repeatedly for detailed reports upon the working of the lead mines, none seem to have been made during the decade.⁷² Nevertheless, lead was being produced in considerable quantities. In 1743, M. Salmon allowed 30,000 lbs. of Illinois lead to be shipped to France as ballast on the king's ship.⁷³ De Bertet, who assumed the Illinois command in 1743, took a great interest in the mines, especially in prospecting. He sent to France in 1744 several samples of lead ore taken from different places, and also some copper ore which he had procured from the Indians. This officer requested that some convicted salt smugglers be sent to the Illinois to work in the mines for three years, after which they would be given their freedom.⁷⁴

The minister continually emphasized the promotion of agriculture instead of mining, considering that a strong and stable colony was necessary before the mines could be adequately worked. He did, however,

⁶⁹See *supra*, p. 45, note 59.

⁷⁰Memoir on the French Colonies of North America, 1750, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 230-231.

⁷¹Bienville and Salmon to Minister, New Orleans, Apr. 25, 1741, *Arch. Nat., Col.*, C¹³A, 26:11-12. Minister to Bienville and Salmon, Versailles, Mar. 19, 1740, *Ibid.*, B, 70:448-448v. Alvord in the book, *The Illinois Country*, 209, leaves the impression that Renault surrendered his concession in 1744.

⁷²Minister to Vaudreuil and Salmon, Versailles, Oct. 22, 1742, *Arch. Nat., Col.*, B, 74:662-662v. See also Minister to Vaudreuil, Versailles, Jan. 1, 1744, *Ibid.*, B, 78:6; Vaudreuil and Le Normand to the Minister, Jan. 4, 1745, *Ibid.*, C¹³A, 29:5v-6v. The latter indicates such a report was being prepared in the Illinois.

⁷³Salmon to Minister, New Orleans, July 20, 1743, *Ibid.*, C¹³A, 28:105-105v. The minister granted permission to continue to send lead this way when there was room for it. Minister to Salmon, Versailles, Jan. 13, 1744, *Ibid.*, B, 78:16. Hocquart in 1743 estimated the total lead production of the Illinois at 75,000 lbs. Hocquart to Minister, Nov. 2, 1743, *Ibid.*, C¹³A, 80:270.

⁷⁴Vaudreuil to Minister, New Orleans, Dec. 6, 1744, *Ibid.*, C¹³A, 28:249-250v. Vaudreuil to Minister, New Orleans, Oct. 30, 1745, *Ibid.*, C¹³A, 29:91v-92. The samples of copper ore sent proved so poor that they were said not to be worth working. Minister to Vaudreuil and Le Normand, Apr. 30, 1746, *Ibid.*, B, 83:312.

promise to send over a dozen *faux sauniers* for the mines.⁷⁵ The war with the English upset the plans for sending over the *faux sauniers*, and little seems to have been done toward further development of the mines until peace returned.⁷⁶

In 1747 a Portuguese mining engineer secured permission to prospect in the Miami River region and other places for copper. After some delay, he went out in 1748, but seems to have done nothing.⁷⁷ In 1750 he was prospecting, along with a Spaniard, and gave a very favorable report upon the possibilities of the mines, especially of those producing lead.⁷⁸ Salt was produced near Kaskaskia in quantities sufficient for the use of the Illinois⁷⁹ and the neighboring posts, including those of Canada.⁸⁰

The copper deposits about Lake Superior had long been known to the French. In 1734, Sieur Denys La Ronde went out to command the post at Chequamigon, and began to prospect for copper. Returning to Montreal in 1736, he engaged two German miners in the following year,⁸¹ who were, however, delayed at Montreal until the spring of 1738. La Ronde followed them, and with much difficulty got them to do some prospecting in company with his son. He himself remained at Chequamigon to pacify the Sauter who had lately taken up arms against the Sioux of the Lakes. The younger La Ronde with six white men, including the two miners, set out for the discoveries. Ascending the River Sainte Anne, they found two mines, one on the left and one on the right bank of the river. These the German miners pronounced as good as the best in their own country according to La Ronde's report. Six leagues farther to the west, on Black River, they found a third mine which promised much. In 1739, after a fourth site had been located, La Ronde led the two Germans back to Quebec, leaving his son to build a fort and a forge on the River Sainte Anne. He was also to build a forty-ton boat for

⁷⁵Minister to Vaudreuil, Jan. 1, 1744, *Ibid.*, B, 78:441^v-442; Minister to Vaudreuil and Le Normand, Apr. 30, 1746, *Ibid.*, B, 83:312-313; Minister to Vaudreuil, Versailles, Apr. 25, 1746, *Ibid.*, B, 83:10. Direct orders were given in 1746 to De Bertet to leave the exploitation of mines for the present, and encourage agriculture. "Although the exploitation of the mines which are found in the Illinois region cannot fail to be of interest, there must not at present be any consideration of undertaking it. There is another object which deserves preference to all else; and this is the culture of the land." Minister to De Bertet, Paris, May 19, 1746, *Ibid.*, B, 83:321. Even the *faux sauniers* to be sent were recommended more for agriculture than for the mines. Minister to Vaudreuil, Versailles, Jan. 1, 1744, *Ibid.*, B, 78:7.

⁷⁶Minister to Vaudreuil, Versailles, Apr. 25, 1746, *Ibid.*, B, 83:10. Some were promised at the end of the war. An instance is given at this time in which a salt smuggler's wife and children were sent at government expense to join him in Louisiana. Minister to Vaudreuil and Le Normand, Versailles, *Ibid.*, B, 83:20^v. Of course, lead was mined all the while. In 1745 we find a record of 522 bars being sent to France from New Orleans. Surrey, *The Commerce of Louisiana*, 204. The price of lead remained during this decade almost without variation at 20 sols per pound according to the expense bills of the posts. This shows that the supply was always adequate for the demand, even in emergencies.

⁷⁷Minister to Vaudreuil, Versailles, Oct. 9, 1747, *Arch. Nat.*, Col., B, 85:16; Vaudreuil to Minister, May 24, 1748, *Ibid.*, C¹³A, 32:65.

⁷⁸Father Vivier to Father ———, at the Illinois, Nov. 17, 1750, Thwaites, *Jes. Rel.*, 69, 221-223.

⁷⁹"A Chapter in Colonial History," *La. Hist. Quart.*, VI, 4, 564-565.

⁸⁰Father Vivier to Father ———, at the Illinois, Nov. 17, 1750, Thwaites, *Jes. Rel.*, 69, 221-223.

⁸¹See *Arch. Nat.*, Col., C¹³E, 13:251^v, which is a record of La Ronde's life. He died in 1741, but his son who bore his name continued his work.

use in moving materials to and from Sault Sainte Marie. Twelve carpenters were sent to assist him, and by 1740 it was reported that these works had been finished. It was La Ronde's intention to import French miners to work the mines, but in this he was opposed by the governor and intendant.⁸²

In spite of the favorable report of the copper deposits as discovered by La Ronde's expedition in 1738 and 1739, the samples sent to France did not assay satisfactorily, and La Ronde died suddenly in 1741, leaving his son deeply in debt.⁸³ La Ronde the younger held the post for some years after his father's decease, exploiting the fur trade in that region, and paying off the debts of his father.⁸⁴

Such was the actual state of the great western country, its people, and their industry in the 1740's. In passing it would be interesting to notice what the French thought would be the future of these vast regions. La Galissonière in 1750 summed the matter up as follows: "The question is not whether Colonies shall in future be established or not; they are established, and most of them firmly established. It is to be determined whether they will be handed over to jealous neighbors, whose entire ambition is to strip France of them."⁸⁵ This was doubtless the question in the minds of most Frenchmen at that time. But if the colonies were to remain in French control, what would be their future? To this question, La Galissonière also gave a reply, saying, "We must not flatter ourselves that our Continental Colonies; that is to say, this (Canada) and Louisiana, can ever compete in wealth with the adjoining English Colonies, nor even carry on any very lucrative trade;" The fur trade he saw as one whose profits were yearly diminishing, and the difficulties of navigation in the vast interior he thought would keep other profitable trade away.⁸⁶ Peter Kalm, on the other hand, saw in her colonies "the foundation to the rise of France," and lamented that his own country (Sweden) had allowed her hold on her American possessions to lapse.⁸⁷

As far as the western country was concerned, La Galissonière envisioned it as the future home of a large French population, which would in time offset on the land the advantage England possessed over France on

⁸²Beauharnois and Hocquart to Minister, Jan. 28, 1738, *Ibid.*, C¹A, 70: 253-254; Memoir of La Ronde on the copper mines of Lake Superior, Oct. 12, 1740, *Ibid.*, C¹E, 13:255-256.

⁸³Memoir on the mines by Beauharnois and Hocquart, Jan., 1741, *Ibid.*, C¹A, 76:302-302v; Beauharnois to Minister, Quebec, May 12, 1741, *Ibid.*, C¹A, 16:237-239v. La Ronde died of apoplexy on Mar. 24, 1741. The minister reported "great difficulties" in the exploitation of the mines there. Minister to M. Grassin, Marly, Feb. 17, 1740, *Ibid.*, B, 71:51-51v; same to M. Saur, *Ibid.*, 51. Memoir of the King to Beauharnois and Hocquart, Marly, May 13, 1740, *Ibid.*, B, 70:359-363v. La Ronde had been financed by Sieur Charly at Montreal.

⁸⁴Memoir of the King to Beauharnois and Hocquart, Marly, May 12, 1741, *Ibid.*, B, 72:382-386v.

⁸⁵Memoir on the French Colonies in North America, 1750?, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 221.

⁸⁶La Galissonière to Minister, Quebec, Sept. 1, 1748, *Ibid.*, X, 134.

⁸⁷Kalm, *op. cit.*, III, 110.

the sea. He especially advocated the development of the Illinois country as a part of this scheme.⁸⁸ In response to this, preparations were made to send additional settlers to the Illinois from France in 1750.⁸⁹ La Galissonière was also interested in the development and future of Detroit. It was he who laid out the plans for the sedentary command established there in 1749.⁹⁰ He thought, in fact, that Detroit was better located and had a better soil than the Illinois. It was his contention that an agricultural population of a thousand people there would be enough to give the French the key to the control of the upper lakes region as well as of the Ohio and the Illinois.⁹¹

What was to be the future relationship of Canada and Louisiana to each other in the French colonial scheme? The answer to this question was vital to the destiny of the great western country. "The conservation of Canada and Louisiana are closely bound together, the possession of one of these would put the English in position to win over all the savages of that part of the continent, and to engage them either by persuasion or by force to assist them in their enterprises The increase of their riches would soon render them the arbiters of all Europe, where they have already too much influence."⁹² La Galissonière considered Louisiana as the smaller sister of Canada, it being the role of the latter to protect and nourish the former. The settlement of the Illinois was to be accomplished by immigration from Canada, and the Illinois in turn would supply the people necessary to develop the whole of Louisiana.⁹³

⁸⁸La Galissonière to Minister, Quebec, Sept. 1, 1748, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 135. A stable population in the Illinois he said would also serve to subjugate all the savage nations of that country, so that such revolts as that of 1747 could not happen. He saw the Illinois country as holding a key position both in respect to checking the English advance and in respect to the control of the Indians. He proposed sending married men there as soldiers and discharging them after a short term of service. Then, too, he thought thirty to forty salt smugglers should be sent there each year, and ten or twelve Canadian families. This increase of population and agriculture would shortly give New France a bulwark in the west.

⁸⁹Vaudreuil to Minister, Sept. 24, 1740, *Arch. Nat., Col.*, C¹³A, 34:277-277v. These were evidently the salt smugglers which had been promised since 1744. Minister to Vaudreuil, Versailles, Sept. 26, 1750, *Ibid.*, B, 91:14.

⁹⁰La Galissonière to Minister, Sept. 25, 1748, *Wisc. Hist. Coll.*, XVII, 499-501.

⁹¹Memoir on the French Colonies in North America, 1750?, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 230.

⁹²Memoir on Louisiana in 1746, *Arch. Nat., Col.*, C¹³A, 30:280-281.

⁹³Memoir on the French Colonies of North America, 1750?, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 231-232. He also saw Canada as the future granary of the tropical regions.

CHAPTER III

THE FUR TRADE

THE COMPANY of the Indies held the monopoly of the beaver trade in America. Though this monopoly had once included the trade in other furs as well, the company, finding only the beaver trade profitable, had relinquished its control of the others entirely. The following discussion will be chiefly concerned with the trade in beaver, information on the trade in other furs being scarce.

In knowledge of the fur trade the French are said to have excelled the English. "They know all that affair better than we do Their Ministers are well inform'd which I doubt ours are not They take much pains to be inform'd & never fail to incourage such as can give information or any way improve their Trade & Interest & they constantly employ men of sufficient abilities for that purpose while we take no pains & know little else besides what we learn from their books." These are the words of Cadwallader Colden, a shrewd English observer of conditions of trade and Indian relations.¹ This view was shared by both Conrad Weiser and Sir William Johnson who admired French skill in trade with the savages as well as in diplomacy.² The secret of the French ability to maintain their commercial and diplomatic ascendancy over the savages in the face of great odds is partly to be explained in their systematic way of handling the trade. They believed in strict regulation in keeping with the best mercantilist theory of the day, a policy which worked well considering the other handicaps of the trade. The fact that they eventually lost to the English in the contest for the control of the trade was due to weaknesses of the French industrial system and to the greater distances over which French traders operated in carrying on the trade. They did not tolerate freedom of trade and open competition, seeing in these the ruination of prices as well as opportunities for corruption.³ The control of the trade was in the hands of the government, private individuals being forbidden to trade except under license.⁴

¹Colden to Peter Collinson, December 7, 1743, *The Colden Papers*, N. Y. Hist. Soc. Coll., 1919, III, 42-44. The best account of the Canadian fur trade in this period is found in Innis, H. A., *The Fur Trade in Canada, An Introduction to Canadian Economic History*, New Haven, 1930. See also Burpee, L. J., "Highways of Fur Trade," *Trans. Roy. Soc. of Canada*, third ser., VIII, 183-192. Surrey, N. M. (Mrs.), *The Commerce of Louisiana During the French Regime, 1699-1763*, New York, 1916, is the best general account of Louisiana trade and commerce. The beaver trade in Louisiana was not large, especially since Canadian traders took most of the catch in the northern regions of that province. Though present throughout most of Louisiana, the beaver did not produce good fur in the south. Deerskins were the leading item in the Louisiana trade.

²Weiser to Peters, 1745, *Penn. Arch.*, first ser., I, 671.

³Vaudreuil to Minister, New Orleans, Aug. 25, 1743, *Arch. Nat., Col.*, C¹³A, 28:82-83. The governor here shows how lack of regulation of the trade had caused bad conditions to arise in the Illinois.

⁴Minister to Father Lavaud, Apr. 27, 1742, *Can. Arch. Rep.*, 1905, I, 4. Here the missionaries are especially forbidden to trade.

The post trade was carried on at various times under three systems of exploitation—the system of farming, the license system, and the system of exploitation by the commandant of the post. In the farming system, the monopoly of the trade at a given post was granted, usually at public auction,⁵ to some individual or company. Such a lease was usually granted for a term of three years at a definite price. The farmer agreed to exploit the post himself, or to send *engagés* to do it for him. He was restricted to a certain territory or to trading with certain tribes in the neighborhood of the post, and could send as many canoes with goods as he deemed necessary. The content of his cargoes was strictly regulated, especially as to the amount of liquor carried. The farmer was assured that the officer at the post would protect him in his trade monopoly, and do him justice, while the farmer, in his turn, would supply the commandant with fuel, lodging, and the conveyance of his supplies from Montreal. In case of extraordinary expenditures, the commandant was obliged to buy the goods from the farmer at cost in Montreal plus a certain percentage for transportation charges. The farmer usually provided the interpreter for the post, and he was allowed to maintain a smith for his own profit. Finally, he bound himself to pay the price of the lease yearly subject to the penalty of imprisonment for debt.⁶

Under the license system, private traders bought *congés* permitting them to trade at certain posts. Each *congé* designated the number of canoes the trader was allowed to send, the *engagés* who were to accompany him, as well as the route to be taken. In order to prevent un-

⁵This was limited. The government reserved the right to pass upon the "general qualifications" of bidders.

⁶For sample conditions under which a farmer held a post, see contract of Sieur St. Ange Charly, Montreal merchant, for the exploitation of the post of the Miamis in 1724. (*O. L. Schmidt Collection*, II, 326-327). In this contract the farmer paid 3,000 livres per year for the permit to trade, his contract lasting for three years. His field was limited to certain well established regions about the post, but he could send as many canoes as he deemed necessary. He agreed to take only a minimum number of men to the post in time of war (this in order not to weaken the defense of the colony), and of course he was required to secure the usual licenses for the canoes. Only four pots of liquor per man per canoe could be taken up to the post, though fifteen barrels (16 pots each) might be taken up yearly for the consumption of the post garrison, and the general trade. The former lessee was to cease trading as soon as the new one arrived, taking his goods to Detroit for disposal, though he might leave an agent at the Miamis to collect his debts. The officer at the post was forbidden to trade; on the other hand, he was required to protect the farmer against *coureurs de bois*, whose goods if found were to be forfeited to the farmer. The farmer on his part was bound to bring up to the post yearly, and at his own expense, 1,500 lbs. of goods for the commandant, including his trunk. In case of extraordinary expenditures, the commandant was to buy goods from the farmer at cost plus thirty per cent. The farmer maintained an interpreter at the post both for his own use and for that of the commandant. If any forges were established, they were to operate to the profit of the farmer. See also contract for exploitation of the post at *La Baye* in 1747. *Wisc. Hist. Coll.*, XVII, 451-455. The provision regarding liquor in this case was the same except that thirty or forty casks of liquor might be brought up for the general trade. Of course the farmer might sublet his post to others. In this case, the new lessees were subjected to all the terms of the farmer's contract, and in addition they agreed to certain other provisions especially regarding furnishings. (They usually agreed to buy these from the farmer if he were a merchant, as he commonly was.) The farmer was to receive the furs, taking pay for furnishings made and paying for the surplus at the Quebec price. The sub-lessees also were bound to submit their expenses to a yearly audit at the hands of the farmer, and they were singly and collectively responsible for the advances made by the farmer as well as for the rental of the post. Lastly, the farmer became the legal representative of the sub-lessees "to look after the interest of the partnership." See contract between Srs. Clignancourt, *et al.*, and Srs. Monière and Lechelle concerning the farm of *La Baye*, April 4, 1747, *O. L. Schmidt Coll.*, II, 250-251. A farmer or trader in his necessity might also voluntarily take in a partner; *La Vérendrye* once made Sieur Gamelin such a proposition on Gamelin's own terms. *Ibid.*, 373.

licensed individuals from going out with the canoes the role of each *engagé* was fixed. Holders of *congés* were also bound to carry in each canoe going out to the post a certain amount of goods for the king, such as supplies for the commandant, missionary, or interpreter. *Congés* were not sold at auction, but were issued upon application. Sometimes they were given *gratis* for certain reasons. The *engagé* was placed under contract with the *voyageur* who held the *congé*. He agreed to make the trip and return for a certain sum to be paid in peltries at the market price on his return to Montreal.⁷ In the system of exploitation of the posts by the military commandant, this officer held a monopoly of the trade just as the farmer under the farming system.

The decade under consideration saw all three systems of exploitation of the post in use. For some years, the officers had been allowed to trade at their posts, but in 1742 the king ordered this system to be abolished and the farming system established. This change of policy was doubtless due to pressure from wealthy traders at Montreal and Quebec, though the excuse offered was that the "good of the service had been imperilled by the attention the officers had been giving to the trade."⁸ Beginning in 1743, all posts, except Michilimakinac, Detroit, Chequamigon, and the posts of *La Mer d'Ouest*, were to be let out to farms at auction. Detroit and Michilimakinac were to be left on the *congé* footing, while Chequamigon and La Vérendrye's posts were to be left to the exploitation of the officers in command.⁹ Officers in command of those posts farmed out or licensed to traders were to be paid a percentage of the proceeds of the post, except at Detroit. Here the system of a "sedentary command" was to be established as a part of the scheme to encourage settlement of the post and the development of agriculture.¹⁰

Beauharnois strongly objected to this change of policy. He claimed the Indians would be driven to trade with the English because of the fear that monopoly would mean higher prices.¹¹ He also pointed out that he had already made certain promises under the old system, and he objected

⁷Two hundred livres seems to have been the standard price for a trip from Montreal to Michilimakinac in 1730. See facsimile of an *engagement* in *Quebec Arch. Rep.*, 1930-31, 385. In 1750, in the case of two canoes going up to La Vérendrye's posts for the government, the first was allowed 3,040 livres for wages for the crew of seven. The guide received 700 livres, the others from 320 to 450 livres each. The second, having a crew of six, was allowed 2,280 livres for the same item, the individual wages ranging from 310 to 500 livres. *Arch. Nat., Col., C¹A*, 96:327.

⁸Minister to Hocquart, Fontainebleau, Apr. 20, 1742, *Ibid.*, B, 74:478 ff.

⁹Memoir of the King to Beauharnois and Hocquart, Fontainebleau, Apr. 30, 1742, *Ibid.*, B, 74:503-511. The posts established by La Vérendrye were referred to as "the posts of the western sea."

¹⁰A permanent staff was to be set up there, consisting of the commandant, with a permanent tenure, a deputy of the intendant, an almoner, an interpreter, and a surgeon. The commandant was to receive 3,000 livres yearly, the others 500 livres or less; 1,500 livres yearly was to be allowed for Indian presents. Agriculture and settlement of the land were to be encouraged by *gratis congés* for trade to those who would agree to settle there.

¹¹The governor argued in justification of the old system, that the military officers took only a certain share of the proceeds of the posts. For example, he says the Detroit officer took only 3,000 livres yearly from the *voyageurs* there, and so with the one at River St. Joseph. The amount a trader took depended on his wits!

particularly to allowing the missionaries at some of the posts to operate the forges against which the Indians had complained.¹²

As to the plan to make Detroit a sedentary establishment, Beauharnois agreed the more readily because he was desirous of disposing of De Noyan, commandant at that post. Serious objections were raised as to the method proposed for having supplies and provisions brought up to the post by the *voyageurs*, on the ground that not enough allowance had been made for these things.¹³ The same objections were made as to the application of the scheme to Michilimakinac.¹⁴

The post at Chequamigon was to be left to the younger La Ronde for two years, and La Vérendrye was to be allowed to continue to exploit his posts for a similar period, though the minister was seriously considering having him removed.¹⁵

The minister in reply to these arguments pointed out that the new scheme would not result in higher prices for goods at the posts. The governor was assured that the farmers in bidding would be careful not to put their bid so high as to be forced to raise their prices to the savages in order to make a profit on the trade.¹⁶ The appearance of monopoly was disguised by ordering the farmers to establish more than one store at their posts so as to give the impression that competition was present.¹⁷ However, only four posts—*La Baye*, Michipicoton, the Wea, and Temiscamingue—were farmed out in 1743, and this drew an order from the king to farm out the others the following year.¹⁸

Beauharnois, however, was not reconciled to the new system; he took occasion to point out how badly things went at Niagara, where Sieur Chalet, the farmer in charge, had raised his prices so high that the Indians had carried their furs to Oswego to such an extent that receipts had dwindled by 600 packets of furs.¹⁹ At *La Baye*, Sieur Lusignan, the com-

¹²Beauharnois to Minister, Quebec, Sept. 5, 1742, *Arch. Nat., Col.*, C¹A, 77:94-97; Beauharnois and Hocquart to Minister, Oct. 8, 1742, *Ibid.*, C¹A, 78:378-385. The main argument was that the change of policy would ruin the governor's reputation with the savages, since he had promised them to do otherwise. Concerning the plan to pay the officers a percentage of the proceeds of the trade, it was argued that the officer would not have any certainty of support. It was suggested that the farmers be required to pay the officer one-half of his gratification in advance, the whole not to exceed 3,000 livres. It had long been the custom to allow the missionary to operate the forge at the posts, in order to help him to support the mission. The missionary supplied the tools and steel, and the smith built a charcoal forge and also assisted in getting the fuel at times. It was further agreed that the smith was to do the work brought to him by the Indians, and also the Jesuit's work, for his house or church. All receipts by the smith were divided with the Jesuit equally. The smith might or might not lodge with the missionary. If he worked for himself, he had to use his own iron. At the end of the lease (usually six years) he returned all tools, etc. See Thwaites, *Jes. Rel.*, 69, 241-245; *Ibid.*, 33.

¹³Under this scheme, 1,200 lbs. of baggage had been allowed to the commandant, and 600 lbs. each for the interpreter, surgeon, and other officers at the post. This baggage was to be brought up in the trader's canoes each year. The governor and intendant estimated that the commandant could drink that much weight in wine alone during the year! *Memoir of Beauharnois and Hocquart*, Detroit, Sept. 24, 1742, *Arch. Nat., Col.*, C¹A, 78:393-396. Pierre Jacques Payan de Noyan, Sieur de Chavois, (1695-?) was a nephew of Longueuil and Iberville. For his quarrel with Beauharnois, see *infra*, pp. 66-68.

¹⁴Hocquart and Beauharnois, *Memoir on the Posts*, Oct. 8, 1742, *Ibid.*, C¹A, 78:378-385.

¹⁵*Memoir of the King to Beauharnois and Hocquart*, Fontainebleau, Apr. 30, 1742, *Ibid.*, B, 74:503-511.

¹⁶Minister to Beauharnois, Versailles, Apr. 30, 1743, *Ibid.*, B, 76:403.

¹⁷Beauharnois to Minister, Quebec, Sept. 22, 1743, *Ibid.*, C¹A, 79:144-145^v.

¹⁸*Memoir of the King to Beauharnois and Hocquart*, Versailles, Mar. 24, 1744, *Ibid.*, B, 78:326^v.

¹⁹Beauharnois to Minister, Quebec, Oct. 9, 1744, *Wisc. Hist. Coll.*, XVII, 442-443.

mandant, came to open conflict with his farmer, Sieur Augé, over the exploitation of the trade. Lusignan charged Augé and others were trading openly with *coureurs de bois*. The traders, on their part, claimed that the commandant sought to prevent them from trading at all. Though Augé was recalled under ministerial approval, orders were given that the conduct of officers regarding their farmers should be kept under close observation. Céloron at Niagara was also named as an offender in this respect.²⁰

The war with the English caused the question of trade regulation to be neglected, while it brought great confusion in the exploitation of the trade. At the end of the war, however, La Galissonnière and Bigot took up the subject again and urged a return to the license system. The governor argued that competition between the traders at the posts would mean lower prices of goods for the savages. This, plus the normal return of lower prices incident to the restoration of peace, he hoped would be very attractive to the Indians. He said prices in Montreal were then 150 per cent of what they were before the war, and that traders could hardly keep from raising their prices at the posts accordingly. Bigot thought a part of this rise in prices was due to bargains made between the licensed traders or farmers and the commandants of the posts.²¹

The rising prices of goods, caused by the war and by competitive bidding of the farmers for the posts, is said to have been the cause of the beginning of the defection of the Indians of the upper country from the French. It was the governor's contention that the Indians at most posts were asking for the restoration of the license system, especially those about *La Baye* and River St. Joseph. He said the peace with the English would never cure the evils of the situation, though, of course, it would help. As a sort of palliative to the minister, La Galissonnière recommended that the very distant posts such as Nepigon, Temiscamingue, Kamani-stiquia, Michipicoton, and Chequamigon, where the Indians were so far away from English influence that they had not complained, might be left to the farmers, the others being returned to the license system.²² The minister approved of the suggestion, stipulating that no officer should trade at any post, but should receive a fixed gratification according to rank. It was further ordered that the yearly payment of 10,000 livres for poor relief from the proceeds of the licenses should be continued.²³

The problem of the *coureurs de bois* was always a serious one in regard to trade regulation. These men were illegal traders—men who disregarded the regulations of the government and carried on trade of their

²⁰Minister to Beauharnois, Versailles, Apr. 28, 1745, *Arch. Nat., Col.*, B, 81:397; Memoir of the King to Beauharnois and Hocquart, Versailles, Apr. 28, 1745, *Ibid.*, B, 81:289-290. Paul Louis Dazenard, Sieur de Lusignan (1691-?) held many commands in the west, 1735-1746.

²¹Bigot to Minister, Oct. 22, 1748, *Wisc. Hist. Coll.*, XVII, 502.

²²La Galissonnière to Minister, Oct. 23, 1748, *Ibid.*, XVII, 503-504.

²³Minister to La Jonquière and Bigot, Marly, May 4, 1749, *Ibid.*, XVIII, 25-27; La Jonquière and Bigot to Minister, Sept. 28, 1749, *Ibid.*, 29-30.

own. They received their supplies from licensed French traders or from the English in exchange for their furs. Sometimes Indians served as agents between the *coureurs de bois* and their furnishers. The government continually tried to control them, by issuing orders for their arrest, by regulating the licenses more closely, and finally by sending out traders to compete with them on their own ground. In 1739, Hocquart issued an *ordonnance* regulating the rôles of *engagés* to the end of keeping vagabonds or other unlicensed individuals from going up with the traders.²⁴ In 1741, an edict of the king provided that *congés* might be issued to a number of traders to go out beyond the posts and trade in the woods.²⁵ We have noticed above that Lusignan laid the trouble at *La Baye* to illicit trade between the farmer and the *coureurs de bois*. In this case it was charged that a deal involving 6,000 livres had been made between them, the farmer exchanging merchandise for beaver. This business was terminated when *Sieur Augé* was arrested and sent back to Montreal.²⁶ Of course the *coureurs de bois* did not return for their punishment.²⁷ The French government blamed these outlaws also for the slow rate of growth of the colony in population, since most of them took Indian wives and not only deprived the colony of their own numbers, but also of their natural increase.²⁸ During the years of the war, and especially in 1746 and 1747, when the supply of goods was practically cut off for the western trade, the *coureurs de bois* grew in numbers and in prosperity. They became so numerous that La Galissonnière considered catching some and deporting them as examples. He also suggested that they might be licensed as privateers, such a life being well suited to their temperament.²⁹

In no other place was the problem of lawless elements more acute than in the Illinois. Miscegenation between the whites and natives was reported to have been unusually common there, as a consequence of which the missionaries had allowed whites and natives to intermarry freely.³⁰ Desertion, as we have seen, was common among the Illinois troops, and the fact that the Illinois lay at the outskirts of both colonies, with the boundary between them unsettled, led to additional abuses. *Voyageurs* licensed in Canada often disregarded the Illinois authorities, and unlicensed traders found protection in the fact that they could usually rely upon assistance from the Canadians.

As early as 1743, Vaudreuil had written the minister, that in order to

²⁴Ordonnance, No. 278, June 17, 1739, *Arch. Nat., Col.*, C¹¹A, 71:114-115.

²⁵Twenty-five canoes were equipped with three men each to go into "la profondeur de bois." No person was to hold such a permit two years in succession. King's Edict upon the Fur Trade, undated, *Collection de Documents*, III, 193.

²⁶Beauharnois to Minister, Quebec, Oct. 25, 1744, *Arch. Nat., Col.*, C¹¹A, 81:196-197v.

²⁷Minister to La Jonquière, Versailles, Mar. 6, 1747, *Ibid.*, B, 85:2-2v.

²⁸*Ibid.*

²⁹La Galissonnière to Minister, Oct. 21, 1747, *Ibid.*, C¹¹A, 87:254-254v. This resulted only in further orders to commandants of the posts to apprehend these outlaws. Lists drawn up by the governor were sent to each commandant. Journal of Occurrences, 1747-48, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 162.

³⁰Minister to the Abbé de Brizacier, Versailles, undated, *Arch. Nat., Col.*, B, 62:88.

stop the abuses of the *coureurs de bois* and the frequent desertion from the garrison, "It would be necessary to take special steps to make sure of those who go there to trade." The minister encouraged Beauharnois and Vaudreuil to work out some plan by which they could cooperate to cut down these irregularities.³¹ The Canadian governor, jealous of the possession of the Illinois by Louisiana, was not in a mood to cooperate, especially if cooperation meant the defining of a boundary line between the two colonies. A bitter controversy thus arose between the two governments over the boundary question, and all attempts to settle the matter or to remedy the abuses in the Illinois trade came to naught.³²

The fur trade was carried on by means of an exchange involving raw furs and merchandise. Though some trading was done each spring at Montreal when the savages came to meet the governor and to receive their presents, most of it was done at the posts of the upper country, to which places the traders had carried their goods by canoes. The trading convoy usually left Montreal in May, reaching Detroit sometime in July. The traders departed to their several posts, disposed of their goods to the savages and French hunters and trappers, and then returned home loaded with peltries. The return trip was scheduled to be made in time for the canoes to reach Montreal before bad weather began in November. In the case of the more distant posts, the canoes did not return until the following spring, it being necessary to winter there. The articles suitable for the trade were those used by the savages and by the French woodsmen in their primitive life of hunting, trapping, and warfare.³³ In general, the French were careful to stock articles that were suitable for the trade; sometimes, however, improper goods were sent, especially in stocks for the government's stores, which seem to have been used oftentimes as depositories for shop-worn goods of French merchants—goods utterly useless even for presents for the savages.³⁴

The furs chiefly in demand were: skins of the beaver (dry or fat), bear, raccoon, otter, red fox, mink, fisher, wolf, and deer. Of these the

³¹Minister to Beauharnois, Apr. 28, 1745, *Wisc. Hist. Coll.*, XVIII, 5-6.

³²In general, the Louisiana governor contended for complete control of the Illinois trade and insisted on extending the boundaries of Louisiana as far north as the Wisconsin River. The Canadian authorities were unwilling to give in and the Minister seemed inclined to favor them. At one time he proposed the return of the Illinois country to Canada. Lack of space does not permit giving an account of this interesting controversy which has been worked out in detail.

³³The journey from Montreal to Michilimakinac and return consumed about five months, while two additional months were required to go from Michilimakinac to the Illinois. From Quebec the time required to go to Michilimakinac was half again greater than that from Montreal. See Massicotte, E.-Z., "Arrêts, Edits, Ordonnances . . . dans la Palais de Justice de Montreal," *Trans. Roy. Soc. of Canada*, third ser., XI, 169, note. Pouchot gives the following as the most common articles which were sent up to the posts: hunting guns, lead, balls, powder, steel for striking fire, gun-flints, gun screws, knives, hatchets, kettles, beads, men's shirts, cloth (red and blue) for blankets and petticoats, vermilion and verdigris, tallow, blue and green ribbon of English weaving, needles, thread, awls, blue, white, and red rataan for making moccasins, woolen blankets of three points and a half, three, two, and one and a half of Léon cloth, mirrors framed in wood, hats trimmed fine, and in imitation, with variegated plumes or in red, yellow, blue and green, hoods for men and children of fringed rataan, galloons, real and imitation, brandy, tobacco, razors for the head, glass in beads made after the fashion of wampum, black wines, and paints. Pouchot, *op. cit.*, II, 49.

³⁴See Pouchot, *op. cit.*, II, 47-48.

beaver was most desirable, though the French are said to have sought the skins of smaller animals in the Hudson Bay region. The smaller peltries were not sought to a great extent in Louisiana, chiefly because the milder climate of that region decreased the quality of the furs.³⁵ Deerskins and buffalo hides were more in demand. The Company of the Indies held the monopoly of the beaver trade; the trade in other furs was open to free exploitation. Since the trade in beaver so greatly exceeded that in other furs, and since there exists a general lack of information on the trade in other peltries, our discussion will be limited to the beaver trade.

In the latter 1730's, the French realized that they were losing trade to the English at Oswego, this being reflected in decreased receipts at Niagara and Frontenac. It was reported that the trade in peltries at these two posts decreased from 52,000 lbs. yearly to 25,000-35,000 lbs. between 1732 and 1736.³⁶ Beauharnois and Hocquart attributed this slump in trade to three causes: (1) the suppression of the brandy trade, (2) the bad quality of the *écarlatines*,³⁷ and (3) the low price of beaver.³⁸ The difference in the price paid by the French and the English was possibly the chief factor. In 1739, the English paid five shillings, five and one fourth pence per pound for prime beaver, while the French even after the increase in price in 1738 paid only 20 sols for summer or autumn beaver, and 55 sols for fat or dry skins of good quality. In addition there was a deduction of five per cent commission made on the French prices by the company.³⁹ After the increase in price in 1738 the French redoubled their efforts to enforce trade regulations, to the end of preventing trade with the English.⁴⁰ In regard to improving the quality of the *écarlatines*, little could be done. Undoubtedly the English cloths were of better quality, but mercantilist policies would not allow the French company to use them. Moreover, they could not depend on such a source in time of war.

A problem of equal difficulty was that of the liquor trade with the Indians. Both Hocquart and Beauharnois urged that the restrictions on the liquor trade be removed, especially at Niagara, where, it was argued, a plentiful supply of *eau de vie* would be adequate insurance against Indian canoes going to Oswego.⁴¹ We have noticed in another chapter

³⁵See Le Page Du Pratz, *Histoire de la Louisiane*, III, 377-378.

³⁶Quoted in Innis, *op. cit.*, 89. Receipts of beaver by the company in 1737 were 124,000 lbs., whereas 180,000 lbs. had been expected. *Arch. Nat., Col., C¹A*, 70:103-111.

³⁷This is the current trade term for the red and blue cloths used by the savages for blankets and petticoats.

³⁸Memoir to the King by Beauharnois and Hocquart, May 15, 1738, *Arch. Nat., Col., C¹A*, 69:13-29^v.

³⁹Hocquart to the Directors of the Company of the Indies, Quebec, Oct. 16, 1738, *Ibid.*, C¹A, 70:103-111. See also Innis, *op. cit.*, 109.

⁴⁰In 1737 Hocquart estimated the English harvest of beaver amounted to only 37,000 lbs. *Ibid.*

⁴¹Hocquart to Minister, Quebec, Oct. 26, 1740, *Arch. Nat., Col., C¹A*, 74:306-309^v. Beauharnois was of the opinion that the savages preferred the French *eau de vie* to the English rum, and said that 10,000-12,000 lbs. of extra beaver were collected at Quebec in 1739 by using liquor freely. Hocquart to the Company of the Indies, Quebec, Nov. 3, 1740, *Ibid.*, C¹A, 73:384-386.

that the church opposed the liquor traffic, and that the government had adopted a policy of regulation which would keep down the worst abuses without, however, stopping the trade.

The English were faced with the same problem. Sir William Johnson's success in his Indian policy at Mt. Johnson was owing not a little to his trade in rum, which more than once involved him in difficulties with his government.⁴² In Pennsylvania, the governor reported that the laws regulating the rum trade could not be enforced, and disclosed that his government might be obliged to take the trade out of private hands as had already been done in New England.⁴³ Conrad Weiser says that the evil had so increased that the only remedy for it would have been to apply the death penalty to those who violated the laws in that respect.⁴⁴ In respect to the evil of the liquor trade, the English and the French were thus in agreement. Liquor, nevertheless, continued to be one of the major items of merchandise which the Indian received for his furs.

There were other abuses in the French trade besides the secret trade with the English at Oswego. We have seen something of how the *coureurs de bois* competed with licensed traders.⁴⁵ Detroit also bore a bad reputation in the matter of sending beaver to the English at Oswego through the medium of the savages. This business was shared by the licensed traders in many instances.⁴⁶ The governor and intendant were not over-zealous in enforcing the regulations of the trade for the absentee company, and there is reason to believe that they secretly allowed illicit trade to be carried on.⁴⁷ In any case, the receipts of beaver by the Company of the Indies, were yearly growing less, and in 1738, as we have seen, it had been necessary to raise the price. Attempts had also been made to increase the amount and quality of *écarlatines* sent for the trade.⁴⁸

Any attempt to discuss the volume of the trade in the western country must necessarily meet with serious difficulties due for the most part to the inadequacy of materials. The large illegal trade can, of course, be studied only incidentally. The following table embodies in summarized form the available trade figures for the decade under consideration. It should be understood that these figures are far from complete. Then, too, figures for *congés* granted do not necessarily mean that the *congé*

⁴²See Summons of the Indian Commissioners to Johnson, July 22, 1743, *Sir William Johnson Papers*, I, 19; Joseph Clement to Johnson, Old Condamptedie, Aug. 16, 1748, *Ibid.*, 180.

⁴³Min. of the Council, July 31, 1744, *Penn. Col. Rec.*, IV, 740.

⁴⁴See Weiser to ———, in Min. of the Council, Dec. 5, 1747, *Penn. Col. Rec.*, V, 167.

⁴⁵Hocquart to the Directors of the Company of the Indies, Oct. 16, 1738, *Arch. Nat., Col.*, C¹A, 70:103-111.

⁴⁶Hocquart to the Directors of the Company of the Indies, Nov. 3, 1740, *Ibid.*, C¹A, 74:384-386^v.

⁴⁷Bigot once admitted that he had allowed a secret trade in wool with New England. Messieurs Forant and Bigot to Minister, Louisbourg, Jan. 16, 1740, *Col. de Doc.*, III, 187.

⁴⁸Memoir of the king to Beauharnois and Hocquart, Marly, May 13, 1740, *Arch. Nat., Col.*, B, 70:359-363^v. The price of beaver as fixed in 1738 was 55 sols for fat and dry beaver of good quality, and 20 sols for all other grades. These prices are per pound of pelts. The term "fat" was applied to partly cured pelts, while "dry" pelts were those which had been completely cured. The difference between "fat" and "dry" is no longer noticed in the grading of furs, it being assumed that any pelt received is cured enough to prevent spoiling.

was actually used, since many things might happen to prevent a *voyageur* from completing his journey. The figures given include the trade in the Illinois country, but not in the rest of Louisiana.⁴⁹

<i>Year</i>	<i>Congés</i>	<i>Canoes</i>	<i>Men Engaged</i>	<i>Total Receipts (lbs.)</i>
1740.....	32	57	336	147,000-148,000†
1741*.....	..	..	...	.....
1742*.....	..	..	...	157,000
1743.....	54	68	417	200,000†
1744*.....	54	..	...	200,000†
1745.....	43	..	...	180,000†
1746.....	27	39	208	180,000†
1747.....	37	55	330	100,000-120,000†
1748.....	..	55	...	166,172
1749.....	..	72	434	.....
1750.....	..	74	419	.....

*The registers of *congés* for 1741, 1742, and 1744 are missing.

†Estimated receipts.

These figures, incomplete as they are, indicate a decided increase both in the number of canoes sent and in total receipts of beaver during the period 1740-1743. Except for the Chickasaw campaign of 1739-1740 and minor expeditions against the same enemy in the years immediately following, this was a period of peace. The engagement of northern Indians in this war might be expected to have taken some hunters away from the woods and so have reduced the total "catch" in those years. However, we must conclude that this factor was negligible.

Beginning with 1744 we have the outbreak of the war with the English, which shows its effect in the fall of receipts as indicated. This decline reaches the lowest point in 1747, which year saw the Indian rebellion in the Great Lakes region, with the result that trade was almost entirely cut off during the spring and summer months. Then, too, beginning in 1746 large numbers of western Indians went down to Montreal where they joined the French in the war against New England. The presence of the warriors at Montreal necessarily reduced the hunting of beavers in the upper country.

With the return of peace in 1748, our figures indicate a considerable increase in receipts, though the number of canoes engaged in the trade was no greater than in the previous year. In the two following years our figures show a great increase in the trade activity. Figures for receipts for the last two years of the decade unfortunately are missing, but from the number of canoes and men engaged, it can be assumed that the receipts would show considerable increases over those of the war period.

⁴⁹These figures are compiled from various manuscript sources and from the registers of *congés* as published in the *Quebec Archives Reports*. Innis has also been consulted.

The period thus ends with evident increased activity on the part of the French in the western trade.

Another factor bearing on the volume of the trade was that of prices offered for beaver. Faced with declining receipts after 1745, due to increased trade difficulties, rising prices of merchandise, and scarcity of goods in Canada incident to the war, the French found it necessary to raise the price of beaver above the figures set in 1738. On the basis of an estimated increase of forty per cent in the price of merchandise, it was recommended that the price of dry winter beaver be raised to three livres, fifteen sols, per pound, and fat winter beaver to four livres per pound. The prices of dry summer beaver were to be put at twenty to thirty sols, depending on the quality.⁵⁰ These prices were approved and ordered to be put into effect in June, 1746.⁵¹ Undoubtedly this increase in the price of beaver served to offset to a considerable extent the other disadvantages which the French met in the trade during the war period.

It was first stipulated that these new prices were to be in effect only for the duration of the war, but in 1747 the company agreed to continue to pay the war-time prices for one year after the restoration of peace, this undoubtedly having a heartening effect on the trade.⁵² By 1748, however, the English price for first quality beaver was equal to four livres, twelve sols, in French money, or twelve sols above the French price. This difference is really greater than it at first appears when it is recalled that French prices were subject to a five per cent commission charge by the company, while English bills of exchange were also on a more favorable footing than the French. In spite of these facts, the company was anxious to lower the price, claiming a loss of over 100,000 livres in the period 1746-1747.⁵³ The price of beaver was actually reduced in 1749 and again in 1750.⁵⁴

The effect of these price changes must of course be considered in relation to the prevailing price of merchandise at the posts. Though space does not permit the citing of figures, a study of the prices of goods as shown in the expense accounts at the western posts indicates there was a

⁵⁰Beauharnois and Hocquart to Minister, Quebec, Oct. 15, 1744, *Arch. Nat., Col., C¹¹A*, 81:43-46^v.

⁵¹Minister to Hocquart and Beauharnois, Mar. 17, 1745, *Can. Arch. Rep.*, 1905, I, 39; Beauharnois and Hocquart to Minister, Quebec, Sept. 18, 1746, *Arch. Nat., Col., C¹¹A*, 85:7. This increase was calculated to put French prices on a par with prices then paid by the English. Compare with prices of beaver at Albany in March, 1745/46: fat beaver, five shillings; dry beaver, four shillings, six pence. *Sir William Johnson Papers*, I, 47-48.

⁵²Minister to La Jonquière and Hocquart, Mar. 6, 1747, *Can. Arch. Rep.*, 1906, I, 84. One writer said in regard to this: "I shall observe that as long as the beavers are at a high price, the voyageurs redouble their industry to encourage the Indians to winter in beaver country" Quoted by Innis, *op. cit.*, 105.

⁵³See Memoir on Beaver Trade, 1748, *Arch. Nat., Col., C¹¹A*, 93:10-12^v. The writer of this document attacks the company violently and suggests they raise the price of hats instead of cutting the price of beaver.

⁵⁴The price set in 1749 was three livres, ten sols, for both fat and dry prime beaver. In 1750 this price was further reduced by five sols. The war prices were discontinued on August 21, 1749. Abstract of Despatches in *Doc. Rel. to the Col. Hist. of N. Y.*, X, 199 ff.

decided decline in the prices of the common trade goods from 1740 to 1744. This is chiefly explained in the fact that government purchases at the western posts for the Chickasaw campaign of 1739-1740 and later forays had created an unusual scarcity of available goods at the beginning of this period. Then followed a gradual decline in prices as traders' stocks were replaced. The outbreak of war with the English, however, caused an immediate rise of something like forty per cent in the price of goods at the western posts, and this trend was aggravated as the war continued. By 1747 it was almost impossible to obtain goods for the trade, due to the English control of the seas, and of the 10,000 ells of cloth received in 1746 much was lost in a fire in the Quebec storehouse.⁵⁵ The return of peace brought relief from this situation, but it is certain that prices did not return to the pre-war level.

The war also brought goods of a poorer quality. We have mention of kettles of the wrong shape and size being sent to the Illinois country, and references to the poor quality of *écarlatines* are common.⁵⁶

It must not be concluded, however, that the English were able to take full advantage of the French embarrassment in regard to the western trade. Though Oswego was drawing a considerable trade in beavers from the western country, as early as 1744 the Iroquois began to complain of the increasing price of goods there, alleging that merchandise was so dear that they found no advantage in trading with the English.⁵⁷ The presence of French raiding parties in the general vicinity of Oswego in the period from 1746 to 1748 probably reduced English trade in that area to a minimum. By 1749, however, the English were again plying a thriving trade at this post.⁵⁸ As for the trade in the Hudson Bay region, the French are said to have traded at this time on terms equal with if not better than those of the English.⁵⁹

The decade closed with the French redoubling their efforts to strengthen their trade with the savages. A new post was built at Toronto in 1749 and a military expedition sent into the Ohio valley. An ordinance was issued in May, 1750, "to put an end to the infringements of the prohibitions inserted in the licenses, to prevent the farmers and voyageurs encroaching upon one another's rights, to stop the *coureurs de bois*, to forbid the trade carried on by certain voyageurs with the English, and finally to divert the savage nations from the said trade." The traders were exhorted to follow all regulations carefully, and convoys were to

⁵⁵Hocquart to Minister, Quebec, Sept. 18, 1746, *Arch. Nat., Col.*, C¹¹A, 85:312^v-315^v.

⁵⁶See, for instance, Vaudreuil to Minister, New Orleans, Oct. 30, 1745, *Ibid.*, C¹¹A, 20:91-91^v.

⁵⁷Complaints made at the Albany Council, 1744, 1745, in *N. Y. Hist. Soc. Coll.*, 1869, 512-522.

⁵⁸See returns of trade at Oswego for 1749 as given in *Doc. Rel. to the Col. Hist. of N. Y.*, VI, 538. According to this source 1,385 packets of furs, valued at 21,406 pounds, were received, these furs coming for the most part from western Indians.

⁵⁹*House of Commons, Report*, 1749, 216 ff.

be put under military command.⁶⁰ With the benefits accruing from closer trade regulation, with a firm control of the Ohio region, and with the possibilities of extending the trade area farther to the northwest through such ventures as that of the La Vérendryes, it seemed not unlikely that the French beaver trade could be made secure against English competition.

⁶⁰La Jonquière to Minister, Sept. 29, 1750, *Wisc. Hist. Coll.*, XVIII, 70-73. The post at Toronto was garrisoned by fifteen soldiers and was intended to intercept the flow of trade to the English across the lake. The expedition of Céloron to the Ohio was sent to warn the English and Indians of French intentions, while at the same time the construction of a post or posts in that area was being considered. Abstract of Despatches, 1749, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 202; Minister to La Jonquière, April 15, 1750, *Can. Arch. Rep.*, 1905, I, 132.

CHAPTER IV

GENERAL INDIAN RELATIONS

THE CHIEF CONCERN of the French in regard to their power in the western country was their relations with the several Indian tribes. "Of all the divisions of the administration intrusted to the Sieur de la Jonquière, that which demands the most particular cares to be exercised on his part is the administration of the Indians"¹ This is a typical statement of the minister in issuing instructions to a new governor. Under Indian administration, the French recognized three groups of savages: (1) Indians who were domiciliated at the posts of the western country, (2) those domiciliated near the larger cities of Canada, and (3) the free Indians, who ranged the woods beyond immediate control. The following Indian settlements had been formed near the larger Canadian towns: (1) at Lorette, near Quebec, was a village of Huron; (2) at Bécancourt and St. Francis, near Three Rivers, were two villages comprised of Abenaki; (3) at the Sault St. Louis and the Lake of the Two Mountains, near Montreal, were located two villages, the one of Iroquois, and the other of Iroquois, Algonkin, and Nepissing; and (4) a sixth village was founded in 1749 near the north end of Lake Champlain, called Missikoui, which was attracting Delaware, Abenaki, and some others.

Each of these villages, excepting those at the Lake of the Two Mountains and at Missikoui, was served by a Jesuit missionary; the Sulpicians conducted missions at the other two places. These villages were closely allied to the French, had accepted their religion, and had become entirely dependent upon them for protection against enemies and famine. In turn, they assisted the French in offensive and defensive war and usually favored them with their trade. The Indians domiciliated about the posts as a rule did not embrace the Christian religion (with the exception of the Huron at Detroit and the Illinois tribes) and were much less closely bound to the French than those domiciliated near the larger settlements. Their policy was sometimes at one with that of their more savage neighbors, but generally they were subject to French control. In regard to the free tribes of the forest or prairie, the French sought to control them as far as possible by exploiting their trade and keeping peace between them and the domiciliated Indians.²

Each spring, usually in May, the governor of Canada met the deputies of the savages at Montreal (the Louisiana governor met the southern tribes at Mobile in like manner). In council meetings he sought to impress

¹Instructions to La Jonquière, Apr. 1, 1746, *Arch. Nat., Col.*, B, 83:28^v.

²Royal Instructions to La Jonquière, 1749, Versailles, *Ibid.*, B, 89:51^v-52.

his will upon them, to direct their actions toward his interest, and more specifically to encourage them to give their trade to the French. At the close of the conference, presents were distributed. Merchants also took advantage of this occasion to trade with the Indians, for many of them brought down furs.³ Sometimes the governor spent as much as three months at Montreal busied with affairs of Indian diplomacy.⁴ In the Indian administration, the post commandant held a very important place, for his was much of the responsibility incident to direct contact with the savages. Besides being an officer of ordinary talents, he must also be a diplomat of first rank.⁵ In this regard the missionary was also often very helpful.

Our task here is to note the operation of French policy in regard to the Indian tribes as well as to discuss the outstanding diplomatic problems of the period. Some of these are discussed in detail to give the reader an idea of the operation of the system itself.

The Huron at Detroit presented one of the chief problems to the French. This tribe was small, numbering only about two hundred men; however, the Huron were a very spirited people, and were ill at ease among the Ottawa, who hated them sincerely.⁶ The trouble between these two tribes was probably of long standing, but the fact that the Huron had lately refused to make war on the Chickasaw was the immediate cause for the quarrel. Inasmuch as the Ottawa were still heathen, they also despised the Huron because they were "praying Indians." A solution to the problem might be found in moving the Huron to some other site, but this was always dangerous because it might antagonize other nations or otherwise go against French interests. The Huron were said to be thinking of moving to the Ohio valley, where it was feared they might come under English influence. A rumor was also current in 1739 that they would join themselves to some southern tribe. At the same time, they had asked to be removed to the region of Montreal.⁷ Throughout 1740, they negotiated with Beauharnois through the Detroit commandant and La Richardie, the missionary. Nicolas, one of the head chiefs, seemed in favor of this move, but Anguirot, a notorious drunkard, was opposed to it. Shortly afterwards, Nicolas showed his real temper by withdrawing with a considerable following. He led his people to Sandusky on the south shore of Lake Erie where he established a village.⁸

³Instructions to La Jonquière, Apr. 1, 1746, *Ibid.*, B, 83:29-29^v. Of course, the Indians brought gifts to the governor, the exchange of gifts being an important part of diplomatic proceedings. Fine fur robes are commonly mentioned among gifts of the savages. Indian diplomacy is a subject requiring special consideration, and will not be treated in the scope of this essay. For a vivid description of how it was conducted, see "Canada, Memoir on the Indian Nations, 1742," *Ibid.*, C¹A, 78:388-392.

⁴Beauharnois to Minister, Quebec, Aug. 14, 1742, *Ibid.*, C¹A, 77:83-84.

⁵Instructions to La Jonquière, Apr. 1, 1746, *Ibid.*, B, 83:78^v.

⁶Memoir on Indians, Apr., 1741, *Ibid.*, C¹A, 76:315-317^v.

⁷Unsigned Memorandum on Indian Affairs at Detroit, 1738-1741, Cadillac Papers, *Mich. Pion. and Hist. Coll.*, 34, 193 ff.

⁸*Ibid.* Armand de la Richardie (1686-1758) served at the Detroit mission from 1728 to his death, excepting 1746-1747 when he was recalled by the governor.

While this matter was under consideration, the minister insisted that a change of commandants be made at the post. It was thought that De Noyelle lacked influence with the nations, hence his failure to reassure the Huron. Although Beauharnois was not pleased with the appointment of De Noyan, the new commandant, he could only acquiesce in it.⁹ We shall have occasion later to see how this factor was to operate during Beauharnois' attempt to remove the Huron to Montreal.

Another important factor is the attitude of La Richardie, who in 1739-1740 spent some time at the new Huron settlement which was forming at Sandusky, supposedly attempting to persuade those people to return to Detroit. At this time he began to oppose the plan of removing the tribe to Sault St. Louis on the excuse that the enmity of one of the Iroquois chiefs there would make it inadvisable.¹⁰ The real reason for La Richardie's opposition is found in his jealousy of the Sulpicians who had charge of the mission at the Lake of the Two Mountains. Even though the Huron were asked to settle at the Sault where the Jesuits were in control, it was quite likely that they would prefer the Lake region.¹¹ De Noyelle, too, had opposed the whole movement, and was confident that he could solve the problem by getting the Huron to re-enter the war against the Chickasaw, in which case their enemies would cease to press them at Detroit.¹²

In spite of the above-mentioned opposition, the governor was sanguine for the removal. He had conceived the idea of replacing the Huron at Detroit with the Shawnee from the Ohio country. This would solve both the Huron problem and that of the Shawnee, who because of their commercial relations with the English were being led away from French allegiance.¹³ Beauharnois, therefore, decided to attempt to remove the Huron to the vicinity of Montreal, and he chose his nephew, the Chevalier de Beauharnois, to lead them.¹⁴

In the summer of 1741, the Chevalier, accompanied by four aides and two canoes of the domiciliated Iroquois, set out for Detroit.¹⁵ On August 2, he delivered the governor's message to the Huron, finding them reluctant to leave.¹⁶ In the first place, the Huron had largely returned to

⁹Minister to Beauharnois, Versailles, May 2, 1740, *Arch. Nat., Col.*, B, 70:342-342v; Minister to De Noyan, May 2, 1740, *Ibid.*, B, 70:349-349v. De Noyan evidently had influence at the court which secured his appointment against the governor's wishes.

¹⁰Beauharnois to Minister, Quebec, Oct. 1, 1740, *Ibid.*, C¹A, 74:80-84.

¹¹Extract from Letter of La Richardie to St. P , Detroit, Aug. 26, 1740, *Ibid.*, C¹A, 74:268-269v.

¹²Beauharnois to Minister, Quebec, Oct. 1, 1740, *Ibid.*, C¹A, 74:80-84.

¹³Memoir on Indians, 1741, *Ibid.*, C¹A, 76:315-317v. The king approved this policy also. Minister to Beauharnois, Marly, May 6, 1741, *Ibid.*, B, 72:373-374.

¹⁴Beauharnois to Minister, Quebec, Oct. 1, 1741, *Ibid.*, C¹A, 74:80-84. See also instructions to the Chevalier, in *Wisc. Hist. Coll.*, XVII, 346-348. Beauharnois also prepared the Indians at the Sault and the Lake to receive the Huron, persuading them to agree to this by a liberal distribution of presents. Words of Beauharnois to the Iroquois of the Sault and Lake, June 12, 1741, *Arch. Nat., Col.*, C¹A, 75:106-109. Three hundred *minots* of flour, one hundred and fifty of corn, and forty-five of peas were distributed at this time. Claude de Beauharnois (1717-?) was a nephew of the governor, and a captain in the army. His choice for this mission could be defended by reason of his being an adopted chief in the villages at the Sault and Lake.

¹⁵See expense account for the equipment of his party, *Arch. Nat., Col.*, C¹A, 76:227-239.

¹⁶*Ibid.*, C¹A, 75:99-99v.

the war against the Chickasaw.¹⁷ The opposition of the chief, Anguirot, whom the Chevalier described as an "accomplished politician" was also a considerable factor. Then, too, he soon became aware of La Richardie's lack of cooperation. The Chevalier also complained that he had no presents suitable for the Huron women, whom he described as being held in high esteem by their men.¹⁸

After spending a month at Detroit without accomplishing anything, the Chevalier went to Sandusky to see what could be done there. Though La Richardie went along, he tells us that he gave the Chevalier little assistance in the accomplishment of his purpose.¹⁹ At the same time he wrote his superior, giving an exaggerated account of the success of the Jesuit mission at Detroit, hoping thereby to influence him in opposing the removal of the Huron.²⁰ Finally, the Chevalier was forced to return to Montreal, accompanied by only a few old Huron chiefs. Beauharnois could only ask for the minister's approval of the course he had taken.²¹

The failure of the Chevalier's mission determined the governor to take revenge on La Richardie, as well as on the others who had opposed him. He had taken the opportunity to seize some of the father's letters from which he had gleaned the information we have noted above. In 1742, Beauharnois wrote: "The conduct which the chiefs have shown toward my nephew has not come of their own part; it has been aroused in them by their missionary." La Richardie was accused not only of thwarting the governor's plans, but also of encouraging the Huron to remove to another location near Detroit. In general, the governor charged that the Jesuits were trying to get control of the government,²² and he made so bold as to hint that La Richardie may have been under English influence. Accordingly orders were issued which removed the Jesuit from the mission.²³ In this, however, the governor was thwarted for the time being, for the priest sent to relieve La Richardie feigned sickness, and returned, leaving La Richardie in charge of the mission for some time.²⁴

Beauharnois' attitude toward De Noyan was quite as antagonistic. De Noyan in self-defense corresponded directly with the minister, and laid

¹⁷The Chevalier says over one hundred and sixty warriors were out on this mission at that time. This compares very closely with information drawn from Detroit expense accounts.

¹⁸Chevalier de Beauharnois to the Marquis de Beauharnois, Detroit, Aug. 2, 1741, *Wisc. Hist. Coll.*, XVII, 353-355.

¹⁹Father de La Richardie to Father de Jaunay, Detroit, Dec., 1741, *Arch. Nat., Col.*, C¹¹A, 75:124-124^v. At this time La Richardie feared the governor intended to remove the Huron to the new village being founded by the Sulpician, Piquet, at the head of Lake Champlain. The expense accounts at Detroit show that La Richardie was greatly interested in selling supplies to the Chevalier, and even rented him a house for lodging. The Missionary's smith also did considerable work for the party.

²⁰La Richardie to the Father General, June 21, 1741, Thwaites, *Jes. Rel.*, 60, 51-53. He did not, however, favor the plan of getting the Huron to go back to war with the Chickasaw, having scruples against such action. La Richardie to Father St. Pé, Detroit, June 10, 1741, *Wisc. Hist. Coll.*, XVII, 339-340.

²¹Beauharnois to Minister, Quebec, Sept. 20, 1742, *Arch. Nat., Col.*, C¹¹A, 77:106-107.

²²Beauharnois to Minister, Quebec, Sept. 15, 1742, *Ibid.*, C¹¹A, 75:121-125^v. Also same to same, Nov. 12, 1742, *Wisc. Hist. Coll.*, XVII, 431; *Arch. Nat., Col.*, C¹¹A, 75:249-250.

²³Beauharnois to Minister, Sept. 17, 1743, Quebec, *Ibid.*, C¹¹A, 79:110-110^v.

²⁴Beauharnois to Minister, Quebec, Oct. 9, 1744, *Ibid.*, C¹¹A, 81:160^v-161. La Richardie really did not leave Detroit until 1746.

his grievances before him. He did not deny that he had opposed Beauharnois in the attempt to remove the Huron, but he claimed he had done so because he had seen the impracticability of the governor's plan. In 1741 he wrote that the measures being taken to eradicate illicit trade with the English about the post were having such good results that this evil had nearly disappeared. It was his opinion that the money Beauharnois had spent in trying to remove the Huron would have done far more good had it been spent for presents for the nations about the post. He also complained that Beauharnois tried to rule Detroit from Quebec, and that Hocquart wanted to set up a sub-delegate there who would take away the commandant's legal powers.²⁵ As De Noyan saw it, Beauharnois, in sending his nephew to Detroit, had sought to rob the commandant of his usual powers of directing Indian movements about the post. However, he did not wish to have it appear that he had actually worked against the Chevalier in the negotiations at Detroit. Rather he ascribed the failure to the inconstancy of the savages, the *rapprochement* with the Ottawa, and the distrust of the Huron for the Iroquois at the Sault. He agreed that the return of the Huron to war with the Chickasaw was an additional reason. In spite of De Noyan's connections with the court, Beauharnois was strong enough to remove him from his command.²⁶ Hocquart also opposed the governor in this matter, talking to him "freely" on the subject. His main objection seems to have been the cost of removing the tribe, which he estimated would be more than 100,000 livres.²⁷

Beauharnois had now decided to abandon plans to remove the Huron. It seems that he had reached this conclusion while the Chevalier was still on his mission.²⁸ The minister accordingly gave his approval that the Huron should remain at Detroit.²⁹ As for the Huron, they were now going against the Chickasaw, and the young men appeared satisfied, though rumors circulated that their interest in the war had begun to lag.³⁰ When Céloron reached Detroit, he found them quite restless, and he feared momentarily that they would remove toward the south of the Ohio.³¹ Finally in 1743 the Huron, with a few Pottawattomie and others, settled at the place called *La Grande Terre* just below Detroit and gave no more trouble until the outbreak of 1747.³² Most of the party at

²⁵De Noyan to Minister, Detroit, Aug. 24, 1741, *Wisc. Hist. Coll.*, XVII, 356 ff. De Noyan evidently preferred to have his superiors in Paris rather than nearer at home.

²⁶De Noyan to Minister, Detroit, Aug. 20, 1742, *Arch. Nat., Col.*, C¹A, 78:248-254^v. For the removal of De Noyan, see Beauharnois to Minister, Sept. 15, 1742, *Ibid.*, C¹A, 75:121-125^v. Céloron succeeded him (1742).

²⁷Hocquart to Minister, June 11, 1742, *Ibid.*, C¹A, 77:277-283. In the same letter, he reveals also that he had corresponded with La Richardie on the subject—this doubtless being unknown to Beauharnois. Beauharnois and Hocquart were on bad terms at this time.

²⁸Beauharnois to Minister, Quebec, Oct. 8, 1741, *Wisc. Hist. Coll.*, XVII, 369-370. Beauharnois to the Three Huron Chiefs, June 28, 1742, *Ibid.*, 377-380.

²⁹Minister to Beauharnois, Versailles, Feb. 14, 1742, *Arch. Nat., Col.*, B, 74:413.

³⁰*Petite Mémoire de Canada*, 1742, *Ibid.*, C¹A, 78:318^v.

³¹Beauharnois to Minister, Quebec, Sept. 15, 1742, *Ibid.*, C¹A, 75:125-125^v. Memoir on Indians, January, 1743, *Ibid.*, C¹A, 80:361.

³²Minister to Beauharnois, Versailles, Mar. 30, 1744, *Ibid.*, B, 78:340; Beauharnois to Minister, Quebec, Oct. 9, 1744, *Ibid.*, C¹A, 81:160-160^v. This location was on the north side of the river, near the present Sandwich, Ontario.

Sandusky remained there in spite of French attempts to entice them back to Detroit.³³

The Ottawa at Michilimakinac presented a problem similar to that of the Huron at Detroit. This tribe numbered only about two hundred and fifty warriors, but like the Huron they were restless and wanted to move.³⁴ Their restlessness was not due to pressure from enemies; indeed, we find them working in perfect harmony with the Pottawattomie in 1740 to "cover the death" of a Frenchman killed by a Sauteur boy at that time.³⁵ They claimed they sought better lands for their crops, though the fact that the French had had some trouble with one of their chiefs, Pentalouan, seems more likely to have caused dissatisfaction in the tribe. This chief had distinguished himself in war with the Foxes, and had worn the governor's medal, but in 1740 he had grown insolent and had given his medal to another chief. Though the rest of the tribe had disavowed him in this act, he still retained much influence with his people.³⁶

In any case, the tribe determined to move, and started for the Wisconsin region. Not being able to restrain them from this act, Céloron, then commandant at Michilimakinac, went along with them. They spent the winter of 1740-1741 in that country, probably on the Mississippi. In the spring, the French officer succeeded in getting most of them to return to Michilimakinac.³⁷ When the Ottawa deputies went to Montreal that spring, the governor discussed their problem with them, trying to direct their removal to some place near the post so that they would not become a threat to the French in the west by going near the English. He was also anxious that their trade at Michilimakinac should not be lost. At a council in July, Beauharnois pointed out to them two locations which he had selected, the choice of one being left to their own decision.³⁸

They returned undecided, and Céloron fell to work helping them to extend their clearings near the fort, hoping this might encourage them to stay where they were.³⁹ They indicated, however, that they would soon make a choice between the two locations selected by the governor, promis-

³³Words of Kinonsaki, Ottawa chief, to the Sandusky Hurons, May 5, 1743, *Ibid.*, C¹A, 79:95-96; Beauharnois to Minister, Sept. 17, 1743, *Ibid.*, C¹A, 79:108^v-110. The whereabouts of Nicolas' village after 1747 is a mystery. It was thought he had moved toward *La Demoiselle's* village on the Miami or farther eastward. Bonnécamp says they found no trace of him in 1749, but heard he was on the Lake. We know Nicolas died sometime during 1750. See report of his death in *La Jonquière* to Minister, Quebec, Oct. 10, 1750, *Wisc. Hist. Coll.*, XVIII, 74-75.

³⁴See Johnson's estimation of Indian numbers made in 1763 in Pouchot, *op. cit.*, II, 260.

³⁵Beauharnois to Minister, Quebec, Oct. 2, 1740, *Arch. Nat., Col.*, C¹A, 74:13-14.

³⁶Beauharnois to Minister, Quebec, Oct. 3, 1740, *Ibid.*, C¹A, 74:21-22. See also the disavowal of Pentalouan by the Ottawa chiefs, Aug. 7, 1740, *Ibid.*, C¹A, 74:25. This is attached to the governor's letter of October 3rd.

³⁷Same to same, Quebec, Oct. 5, 1741, *Ibid.*, C¹A, 75:201-203.

³⁸They had later attempted to go to the valley of the Muskegon River in the present state of Michigan, not, however, with French approval. The two places chosen by the governor were Pouchetaoucy, at the extremity of Bay St. Ignace at the head of Lake Huron, and *L'Arbre Croche*, or the Crooked Tree, which was located on the northwest corner of the Michigan Peninsula. Locations given by O'Callaghan, *Doc. Rel. to the Col. Hist. of N. Y.*, IX, 1072.

³⁹Céloron to Beauharnois, Sept. 2, 1741, *Wisc. Hist. Coll.*, XVII, 359-360. From expense accounts we learn that the savages were given seed corn in liberal amounts at this time. A serious shortage of grain then existed there. In 1742 corn sold at twenty-five livres per sack. After the harvest of that year, the price fell to fifteen livres. The soil at Michilimakinac was not good for agriculture.

ing to do this before the following spring. They were encouraged in this by continued promises of the French that they would have access to more brandy at Montreal than they had been used to having, while Pentalouan, now anxious to be restored to the favor of the governor, gave the benefit of his influence.⁴⁰ The persistence of Céloron, aided by the influence of Pentalouan, finally won out, and in the spring of 1742, the tribe moved to *L'Arbre Croche*, where the French commandant "lighted their fire."⁴¹ Barring minor disturbances with the Sioux, the Ottawa gave no further trouble during this period. Pentalouan went before the governor in 1742, and was pardoned for his past misdemeanors.⁴²

The Sac and Foxes had given the French no serious trouble since the Fox War, though they had remained under suspicion.⁴³ In 1739, Beauharnois sent out to the Wisconsin area Sieur Marin, a skillful trader and Indian agent, who was ordered to lead the Sac and Foxes back to *La Baye* where they were to be permanently settled. This would serve to increase the trade at that post, while the machinations of these tribes with the western Sioux would be curbed.⁴⁴ The Foxes had begun to press toward the Illinois, and had recently killed a French deserter from that post, supposedly by mistake.⁴⁵ In the spring of 1739, Marin tried to persuade the Bay chiefs to go to Montreal to confer with the governor, but succeeded in getting only two Sioux and one Winnebago to follow him.⁴⁶ Although the Sioux seemed repentant, during the summer of 1739 they fell upon a group of Ottawa and killed them. They excused themselves by blaming the Foxes, whom they accused of having spread abroad rumors that the Ottawa had attacked the Sioux chiefs who were returning from Montreal.⁴⁷ Marin, in spite of the government's suspicions, thought the Sioux could be won over by conciliation. To accomplish this, he deemed it essential that a trading post be built on the upper Mississippi, but the king disapproved.⁴⁸

In 1740, Marin brought down the chiefs of the Sac, Foxes, Winnebago, Ottawa, and *Folles Avoines*, but no Sioux, for they would not come after their stroke on the Ottawa the summer before. Discussions held with these disclosed that they were all favorably inclined to peace, though the French were careful not to mention to the Foxes the murder of the

⁴⁰Beauharnois to Minister, Quebec, Oct. 5, 1741, *Arch. Nat., Col., C¹¹A*, 75:201-203^v; Minister to Beauharnois, Versailles, Apr. 20, 1742, *Ibid.*, B, 74:468-469^v.

⁴¹The Ottawa at Montreal, June 16, 1742, *Wisc. Hist. Coll.*, XVII, 372-373.

⁴²Beauharnois to Minister, Quebec, May 12, 1741, *Arch. Nat., Col., C¹¹E*, 16:237-239^v; same to same, Quebec, Sept. 24, 1742, *Ibid.*, C¹¹A, 77:108-112^v. He was not restored just then to his full dignities, but Beauharnois recommended this in 1744. Same to same, Oct. 13, 1743, Quebec, *Ibid.*, C¹¹A, 79:173^v-174.

⁴³Memoir on Indians, 1738, *Ibid.*, C¹¹A, 70:257-259.

⁴⁴Beauharnois to Minister, Montreal, June 30, 1739, *Ibid.*, C¹¹A, 71:35-35^v.

⁴⁵Memoir on Canada, 1740, *Ibid.*, C¹¹A, 74:232-236^v.

⁴⁶*Ibid.*

⁴⁷Words of the chiefs to Marin, Mar. 9, 1740, *Ibid.*, C¹¹A, 74:85-85^v.

⁴⁸Memoir of the King to Beauharnois and Hocquart, Marly, May 13, 1740, *Ibid.*, B, 70:359-363^v.

Frenchman in 1739.⁴⁹ Beauharnois contented himself with encouraging the others to keep peace with the Sioux—a delicate business, since the Sioux were rampant in that country.⁵⁰ The savages returned in a better mood, loaded with presents. Then, too, they were well received by the Ottawa as they passed by Michilimakinac.⁵¹

However, the controversy which had arisen between the Sioux and the northern tribes required additional attention. Marin finally went to Chequamigon to attend to this matter, where he held conferences with the Sauter and others in which he succeeded in pacifying them.⁵² This work was also important for the well-being of the French trade in that region.⁵³ Nevertheless, secret alliances and combinations were concocted by the Sauter and others against the Sioux, and some parties were actually sent out against them, especially by the Ottawa who smarted from the blow of 1739.⁵⁴

The Sioux, also, were suspected of planning attacks on the Illinois, but seem to have been diverted somewhat by the troubles with the northern Indians.⁵⁵ Nevertheless, attacks were made by either Sioux or Foxes on the Illinois in 1740, two of the latter being slain.⁵⁶ To avenge the deaths of their people, the Illinois sent an expedition of sixty men into the Wisconsin country. Upon their reaching the mouth of the Wisconsin River, the Illinois halted, being uncertain as to whether to attack the Sioux or the Foxes. Meeting by chance with some of the latter, they fell upon them and slew four women. When the Sac heard of this affair, they in turn fell upon the Illinois who were returning home via the Mississippi, killing nine and taking five. They claimed this attack was made by mistake, contending that they had taken the Illinois for Missouri Indians.⁵⁷ This affair increased Beauharnois' suspicions against the Foxes, whom he also accused of having "underground belts" with the English. He considered using the forces he had gathered at that time for an attack on Oswego, to make war on the Foxes. Longueuil and other western officers were said to be in sympathy with this idea, and it was certain the court would approve, especially since it was disclosed that the Foxes were planning to seek refuge among the Iroquois or the Sioux.⁵⁸

⁴⁹Marin said he had not been able to do anything about it because of illness, and Beauharnois passed over the matter on the theory that it is better to let sleeping dogs lie. Beauharnois to Minister, Oct. 1, 1740, *Wisc. Hist. Coll.*, XVII, 329-330. Memoir on Indians, 1741, *Arch. Nat., Col.*, C¹¹A, 76:315-317^v.

⁵⁰Responses of the Sac, Foxes, et al., July 5, 1740, *Ibid.*, C¹¹A, 74:60-61.

⁵¹Beauharnois to Minister, Quebec, Oct. 15, 1740, *Ibid.*, C¹¹A, 114:139-139^v.

⁵²Extensive conferences were held there in September, 1741. See expense accounts, *Ibid.*, C¹¹A, 75:286-287.

⁵³Margry, VI, 653.

⁵⁴Beauharnois to Minister, Quebec, Aug. 14, 1742, *Arch. Nat., Col.*, C¹¹A, 77:83-84; Oct. 12, 1742, *Ibid.*, C¹¹E, 16:251-265^v.

⁵⁵Minister to Bienville, Fontainebleau, Oct. 25, 1740, *Ibid.*, B, 70:466-466^v.

⁵⁶Bienville to Minister, New Orleans, Apr. 30, 1741, *Ibid.*, C¹²A, 26:81-87; Benoist de St. Clair to Salmon, Dec. 5, 1740, *Ibid.*, C¹²A, 26:143-144. Benoist thought the enemy were Foxes.

⁵⁷Beauharnois to Minister, Quebec, Sept. 26, 1741, *Wisc. Hist. Coll.*, XVII, 365-366.

⁵⁸Abstract of Despatches, *Doc. Rel. to the Col. Hist. of N. Y.*, IX, 1085-1086.

In the meanwhile Marin was still working on his project to solve the problem by returning the Sac and Foxes to their old homes at *La Baye*. In furtherance of this policy, the governor had issued an order that no traders from the Illinois should trade with those tribes under penalty of being declared *coureurs de bois*.⁵⁹ Although the Sioux had promised Marin to go down to Montreal in 1741, they had become so embroiled with their neighbors that it was impossible to get them to do anything. Then, too, a strong party of Sauter went against them at that time, several of the Sioux being slain. The Sioux themselves killed a Frenchman in the Wisconsin region.⁶⁰ In spite of these embroilments, Marin came down in 1742, accompanied by two Sioux chiefs, one of whom was the influential Ouakantapé. He was also accompanied by goodly representations from the Sac, Foxes, Winnebago, *Folles Avoines*, and Sauter of Chequamigon.⁶¹ During parleys with the governor, the Sioux asked for peace, pleading heavy losses at the hands of their enemies. The Sac and Foxes said their people had almost all returned to *La Baye*, while the Winnebago also reported that a large part of their people had returned there. The governor restored to the Sioux four of their slaves and ordered two more who had been taken in 1741⁶² to be delivered to them. He thought this kindness on his part of restoring their lost people would serve to keep them quiet.⁶³

Marin, though still under the suspicion of the minister, returned to his charge, Beauharnois pleading his merit, and pointing out that Marin had promised the Indians to return with them.⁶⁴ Upon the return of the Sioux to Michilimakinac, De Verchères delivered to them two other slaves as promised. Here, too, a conference was held between the Bay Indians and the Ottawa, the results of which were promising.⁶⁵ That the Sioux were earnest in their desire for peace is shown by the fact that though the Sauter made new raids on them in the autumn of 1742, they did not retaliate.⁶⁶ In November, Marin conferred with large numbers of both the Prairie and Lake Sioux who expressed themselves in terms of warmest affection for the French, and promised to go to see "Onontio" in

⁵⁹The Sac and Foxes were located on the Rock River in Wisconsin. The governor's policy of trying to give Marin a monopoly of trade there may have a different interpretation. Marin was already under the minister's censure for his trading activities. Was the governor also interested in this trade? See Beauharnois to Minister, Sept. 26, 1741, *Wisc. Hist. Coll.*, XVII, 362-364.

⁶⁰Beauharnois to Minister, Sept. 26, 1741, *Wisc. Hist. Coll.*, XVII, 360-362; Minister to Beauharnois, Versailles, Apr. 20, 1742, *Arch. Nat.*, Col., B, 74:468-469^v.

⁶¹Beauharnois to Minister, Quebec, Aug. 14, 1742, *Ibid.*, C¹A, 77:83-84.

⁶²These prisoners had been taken in the war between the Monsonis, a tribe located near Rainy Lake, and the Sioux. La Vérendrye's skillful diplomacy had brought peace to this region after 1742.

⁶³Beauharnois to Minister, Quebec, Sept. 24, 1742, *Ibid.*, C¹A, 77:108-112^v.

⁶⁴*Ibid.*

⁶⁵Beauharnois to Minister, Quebec, Oct. 12, 1742, *Ibid.*, C¹E, 16:258-265^v. Jean Jarret, Sieur de Verchères (1687-1752) was a brother of the famous Madeleine. He commanded at *La Baye* in 1747 and at Frontenac in 1732.

⁶⁶Beauharnois to Minister, Quebec, Sept. 24, 1742, *Ibid.*, C¹A, 77:108-112^v; Oct. 12, 1742, *Ibid.*, 16:258-265^v.

the spring. By this time the governor had also succeeded in restoring peace between the Foxes and the *Folles Avoines* and between the Sac and the Illinois.⁶⁷

In spite of these successes, Marin was still under the suspicion of the minister, and his recall was inevitable. Charges were made against him, both on grounds of lack of ability, and of working too much "in affairs that regard his own interests."⁶⁸ These charges finally resulted in his recall in 1742, the minister being of the opinion that the Sac and Foxes could not be returned to *La Baye*.⁶⁹ Marin returned in 1743, bringing down a considerable deputation of the Sioux. Beauharnois did what he could to justify him and to allow him to return to France on business. He was succeeded by Sieur de Lusignan.⁷⁰

News now came that the Sioux in spite of seemingly good intentions were seeking a direct alliance with the Foxes—a policy which seemed a very detrimental one to the French. This report drew from the minister an order to prevent the movement.⁷¹ Beauharnois at once took issue with the minister in regard to this policy because he believed it impossible to prevent the alliance. Additional reasons for his opposition are found in his pique against the minister over the removal of Marin and also his jealousy of Bienville who had proposed the policy. In a carefully formed letter, he showed his superior that he could do no better than to rely upon the peaceful demonstrations made by both Sioux and Foxes, for the attempt to separate them could only mean war, which he knew the colony was not in condition to undertake. He also pointed out that the Foxes and Sac had now returned to *La Baye* with the exception of about a dozen cabins located near the south end of the lake.⁷² The minister could only acquiesce in Beauharnois' policy. It is a good example of how the French autocracy could be thwarted by a determined governor.⁷³

By 1743, La Vérendrye had the more distant tribes well under control, and had received from them promises that they would not attack the Sioux for two years. La Corne Dubreuil, working at Kamanistiquia, had carried out a similar policy in the vicinity of his post.⁷⁴ In general,

⁶⁷See words of the Sioux to Marin, Nov. 18, Nov. 24, 1742, *Ibid.*, C¹A, 79:120-121^v; *Memoir on Indians*, Jan., 1743, *Ibid.*, C¹A, 80:359^v-360. The Indians called the governor "Onontio."

⁶⁸Minister to Beauharnois, Marly, May 6, 1741, *Ibid.*, B, 72:373-374.

⁶⁹Same to same, Versailles, Apr. 20, 1742, *Ibid.*, B, 74:468-469^v.

⁷⁰Beauharnois to Minister, Quebec, Nov. 2, 1742, *Ibid.*, C¹A, 75:243-243^v; Oct. 13, 1743, Quebec, *Ibid.*, C¹A, 79:176^v-177; Words of the Bay chiefs and Response of Marin, Apr. 25, 1743, *Ibid.*, C¹A, 79:126-127.

⁷¹Bienville to Minister, New Orleans, Feb. 4, 1743, *Ibid.*, C¹A, 28:33; Minister to Beauharnois, Versailles, May 31, 1743, *Ibid.*, B, 76:444-444^v.

⁷²Beauharnois to Minister, Sept. 18, 1743, Quebec, *Ibid.*, C¹A, 79:115-118^v. These cabins were at *Chicagou* for the most part.

⁷³Minister to Beauharnois, Versailles, Mar. 24, 1744, *Wisc. Hist. Coll.*, XVIII, 3-4.

⁷⁴Beauharnois to Minister, Quebec, Sept. 17, 1743, *Arch. Nat., Col.*, C¹A, 79:112-113^v. François Josué de la Corne Dubreuil (1710-1754) held the office of commandant at Kamanistiquia in 1743. Pierre Gaultier de Varennes, Sieur de la Vérendrye (1685-1749), was given a concession to explore and trade in the region to the northwest of Lake Superior in 1731. He and his sons, during the next two decades, made extensive discoveries and opened up a new field for trade. Space does not permit a discussion of La Vérendrye's activities here, but good accounts may be found in G. M. Wrong, *The Rise and Fall of New France*, Vol. II, in Francis Parkman, *A Half Century of Conflict*, Vol. II, and in L. J. Burpee, *The Search for the Western Sea*.

quiet was restored in 1744, though minor outbreaks still occurred at intervals. Beauharnois hoped, upon the outbreak of the war with the English, to use the Indians about La Vérendrye's posts to make an attack on the English in the neighborhood of Hudson Bay. Such a campaign would release the pressure on the Sioux from the north, while it would react favorably among the other tribes about the Great Lakes as well.⁷⁵

During the next two years, troubles arose at *La Baye* in which one Frenchman was killed. These irregularities were chiefly due, it seems, to the insolence of the *coureurs de bois* and troubles between the commandant and the traders.⁷⁶ Lusignan seems to have been unusually lax in dealing with the savages, for in 1745 when the Sioux killed three Frenchmen in the Illinois, he released the murderers when they were delivered to him, just as he had overlooked the death of the trader at *La Baye*.⁷⁷ However, quiet was soon restored, and it was not until the end of the decade that any further serious disturbances arose in the Wisconsin country, there being no trouble in that region even during the revolt of the western tribes in 1747. Marin was returned to the Sioux country in 1749, with orders to build a post among that nation, and to undertake explorations looking toward the discovery of the "western sea"—a project which the minister frowned upon as soon as he learned to whom its execution had been intrusted.⁷⁸

At times the Indians on the Missouri created problems for the French at the Illinois. The number of these savages was not great, the Missouri possessing hardly 500 men and the Osage being much fewer.⁷⁹ Serious trouble arose in that region in 1740 when three Frenchmen were killed and several robbed of their goods. The Missouri also organized a war party against the Arkansas, allies of the French to the south.⁸⁰ Much of the trouble with these Indians, however, was due to abuses in the trade by *coureurs de bois* and other lawless elements. In 1741 Bienville ordered Sieur Benoist to send an officer and six men there to regulate the trade and keep down abuses. At the same time an attempt was made to scrutinize more closely the reputation of those who drew licenses for that trade.⁸¹

⁷⁵Beauharnois to Minister, Quebec, Oct. 9, 1744, *Wisc. Hist. Coll.*, XVII, 441-442; Beauharnois to Minister, Quebec, Oct. 11, 1744, *Arch. Nat., Col.*, C¹³A, 81:166^v. The expense accounts at Michilimackinac show that the Sautere were actually subsidized to prevent them from going against the Sioux. For example, see *Ibid.*, C¹³A, 84:273-273^v. At *La Baye* expenditures are found for such items as the purchase of slaves from the Sautere. La Vérendrye himself gave up two Sioux slaves he owned. See *Ibid.*, C¹³A, 117:357; *Ibid.*, C¹³A, 83:326.

⁷⁶Beauharnois to Minister, Quebec, Oct. 28, 1746, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 37-38. This matter is discussed under the fur trade, *supra*, pp. 54-55.

⁷⁷Vaudreuil to Minister, New Orleans, Nov. 20, 1746, *Arch. Nat., Col.*, C¹³A, 30:71-72. A fourth Frenchman was killed at St. Philippe in the Illinois at about the same time. The Piankeshaw atoned for his death by delivering the head of the murderer's brother, not being able to take the murderer himself. Vaudreuil also says that the Foxes were put on good terms with the French by the surrender of some slaves taken from their nation and held in the Illinois.

⁷⁸La Jonquière to Minister, Aug. 18, 1750, *Wisc. Hist. Coll.*, XVIII, 63-67; La Jonquière and Bigot to Minister, Quebec, Oct. 9, 1749, *Ibid.*, 33-34; Minister to La Jonquière and Bigot, Versailles, Apr. 15, 1750, *Ibid.*, 60-61.

⁷⁹Memoir upon the State of the Colony of Louisiana in 1746, *Arch. Nat., Col.*, C¹³A, 30:258-259.

⁸⁰Benoist de St. Clair to Salmon, July 28, 1740, *Ibid.*, C¹³A, 26:190-191.

⁸¹Bienville to Minister, Sept. 30, 1741, *Ibid.*, C¹³A, 26:97-106.

De Bertet, who was sent up to the Illinois command in 1742,⁸² began to seek a solution to the problem, and a plan was eventually evolved which included farming out the Missouri trade to a trader who would undertake to support the French power there, as well as to extend exploration toward the southwest. Sieur Deruisseau, a Canadian *seigneur*, was granted this monopoly for five years beginning in 1745. He was obliged to build a fort, quarters for officers, barracks, a powder magazine, and a storehouse. He also undertook to pay the officer at the post a gratification of one hundred *pistoles* yearly, to transport the effects of the garrison from the Illinois, and to support them at his own expense. He was also expected to bear part of the expense of keeping the savages on good terms, even to the point of furnishing a part of the presents. It was expressly provided that no intoxicating liquor was to be sold to the savages; and the farmer was also enjoined to send all beaver, marten, and other fine skins to Canada, though all other produce might go to Louisiana.⁸³ Vaudreuil wrote in 1747 that the work on the fort and buildings was nearly finished; and De Bertet reported that the effect had been that of quelling the turmoils occasioned by the lawless elements in those parts.⁸⁴ Benoist, again in command at the Illinois after the death of De Bertet,⁸⁵ was faced with a new series of troubles in the Osage country, for these Indians had murdered two French *coureurs de bois*. Upon their sending chiefs to ask pardon for this act, it was thought best not to press the matter on account of the trouble it might entail.⁸⁶

In regard to certain straggling elements of Nepissing and Algonkin, Beauharnois sought to congregate them at the Lake of the Two Mountains where he was preparing a village. This idea was associated with plans for the removal of the Huron from Detroit, and the migration of the Shawnee to that post to replace them. Of the three removals planned, only the settlement of the Nepissing and Algonkin was successful. Beauharnois estimated that he could gather from these roving tribes as many as 600 warriors, who, joined to the Iroquois and Detroit Huron (whom he then expected to come there), would make a bulwark at Montreal which would give full protection to the city from the south. This would also provide a strong potential force for offensive war against the English.⁸⁷ To facilitate the accomplishment of this project, he asked the minister for 15,000 livres, but only 2,000 livres per year were granted,

⁸²Same to same, New Orleans, July 30, 1742, *Ibid.*, C¹³A, 27:84-84v.

⁸³See *Mémoire* on this subject, Aug. 8, 1744, *Ibid.*, C¹³A, 28:226v-232. Minister to Vaudreuil, Versailles, Apr. 30, 1746, *Ibid.*, B, 83:15v-16.

⁸⁴Vaudreuil to Minister, New Orleans, Mar. 15, 1747, *Ibid.*, C¹³A, 31:21-21v.

⁸⁵De Bertet's death occurred Jan. 7, 1749.

⁸⁶Vaudreuil to Minister, Aug. 26, 1749, *Arch. Nat., Col.*, C¹³A, 33:57-58; Minister to Vaudreuil, Sept. 26, 1750, *Ibid.*, B, 91:14. Benoist associated this new trouble to some extent with *La Demoiselle's* machinations. Benoist de St. Clair to De Raymond, Fort Chartres, Feb. 11, 1750, *Wisc. Hist. Coll.*, XVIII, 58-60.

⁸⁷Beauharnois to Minister, May 12, 1741, *Arch. Nat., Col.*, C¹¹E, 16:237-239.

this to be taken out of fur trade revenues.⁸⁸ This subsidy was continued year after year, and Beauharnois soon reported that many of the vagabonds had been settled there.⁸⁹

The Shawnee have been mentioned as presenting a problem to the French. This tribe, a remnant of the old Shawnee who once lived in Georgia were located on the Allegheny River near Pittsburgh. They were pro-French in sympathy, but much subject to English intrigue. Peter Chartier, a French half-breed, one of their most influential chiefs, had important trading connections with the English in Pennsylvania, and for some time the French had sought to remove the tribe to the west, where they could be better controlled. The French first planned to settle the tribe at Detroit, and later in the vicinity of the Miami post, but in 1745 the Shawnee suddenly migrated to the lower Ohio instead. They settled at the site of the modern Shawneetown, Illinois. The French were greatly embarrassed by this movement of the Shawnee, since they were unable at that time, due to the war conditions, to supply them with merchandise. As a result the Shawnee soon broke up, some of them moving southward to their kindred among the Alabama, and the others going up the Ohio to Scioto, where they joined with other savages, such as the Delaware, to form a center of English intrigue on the Ohio. The French thus lost their hold on the Shawnee, an event not without significance in the outcome of the struggle with the English for the control of the Ohio.⁹⁰

In the early part of the decade, the French had experienced little trouble with the Indians who lived to the south and east of Lake Michigan. These tribes—the Wea, Kickapoo, Mascoutin, Piankeshaw, Pottawattomie, and Miami—were not strong in numbers,⁹¹ and were generally docile, with the exception of the Miami.⁹² At the conferences held at Montreal in July, 1742, Beauharnois was well pleased with the fidelity of these Indians, especially of the Kickapoo, Wea, and Mascoutin, who were taking an active part in the Chickasaw war.⁹³

⁸⁸Minister to Beauharnois, Apr. 20, 1742, *Ibid.*, B, 74:468-469v.

⁸⁹Beauharnois to Minister, Sept. 24, 1742, *Ibid.*, C¹A, 77:108-112v. See also Memoir on Indians, Jan., 1743, *Ibid.*, C¹A, 80:361v-362; Minister to Beauharnois, Versailles, Mar. 24, 1744, *Ibid.*, B, 78:20v-21.

⁹⁰The story of the migration of the Shawnee and its relation to the power of the French in the western country is given in detail in the author's "Shawneetown—A Chapter in the Indian History of Illinois," *Journal of the Illinois State Historical Society*, XXXII, no. 2 (June, 1939), pp. 193-205.

⁹¹The Memoir on Louisiana in 1746 estimates the strength of the Miami as three hundred warriors. *Arch. Nat., Col.*, C¹A, 30:269. Johnson's estimation in 1763 gives the Miami as having 230, the Kickapoo, 180, the Mascoutin, 90, the Piankeshaw, 100, and the Wea, 200 fighting men. Pouchot, *op. cit.*, II, 260.

⁹²In 1740 the French had trouble with the Pottawattomie at River St. Joseph when a Canadian killed one of their chiefs, Corbeau. Coulon de Villiers, the commandant, got them to go down to the governor to be conciliated, after all had been done that was possible to appease the chief's family at the post. See expense account, *Arch. Nat., Col.*, C¹A, 73:256, dated Apr. 15, 1740, showing 210 livres in goods used to "cover" the chief's death. Beauharnois to Minister, Quebec, Oct. 2, 1740 (*Ibid.*, C¹A, 74:13-14), says that 300 livres were spent. Forty livres were also spent in buying a slave to replace Corbeau (July 15, 1740), *Ibid.*, C¹A, 74:142. In October, 1741, a Wea named White Skin killed a Miami who was returning from the English. La Pérade kept the peace by promising the Miami to deliver the murderer. *Ibid.*, C¹A, 76:211-212.

⁹³See account of the conference, July 8-28, 1742, in *Wisc. Hist. Coll.*, XVII, 380 ff. Also Beauharnois to Minister, Quebec, Aug. 14, 1742, *Arch. Nat., Col.*, C¹A, 77:83-84. The expense accounts show that these tribes were very active against the Chickasaw in these years.

Scattered about the region south of Lake Erie were roving bands of Seneca, Iroquois, and others, who presented a very special problem to the French. Though belonging to the Six Nations, these people seemed likely at times to cooperate with the French. This seemed the more possible with the outbreak of war in 1740 between the Seneca and the southern Indians, a movement much against the wishes of the English. The French had also enticed the Onondaga to enter this war, and it was they who in that year had destroyed a large Cherokee peace delegation which was being sent to them under English influence.⁹⁴ A famine among the Seneca in 1741 drove some of them to Canada for assistance, and this increased French influence with that tribe.⁹⁵ In the following year, they agreed to restrain their young men from raids on French commerce at the Niagara portage.⁹⁶ At the same time the French were also assured that the Onondaga and Seneca would not oppose them in the event of an English war.⁹⁷ Vagabond Seneca in the west pledged themselves to the French at Detroit and other places.⁹⁸ In the early part of the war, the English seem to have feared that Chartier contemplated leading a general attack of Shawnee and others against the Virginians and their Indian allies in the south—rumor having it that he was to invade that region with 500 men.⁹⁹

But the French were soon aware that their hold on the nations to the south of Lake Erie was not secure unless they could control their trade. Thus we find De Noyan attempting to open up the trade there according to the governor's orders. In 1740 he sought a trader to send to the Great Miami River, but none would attempt it at his own expense. Finally the Sieur Laguin undertook to do so on the promise of the government to furnish goods for his own use and for Indian presents, he to equip himself and his *engagés*. The following spring he returned bringing some chiefs with him who submitted to French protection.¹⁰⁰ Laguin returned to that region in 1741 and drove out some English traders and a smith they had established there. Then De Noyan was recalled, and interest in the project lagged somewhat.¹⁰¹ However, traders continued to go to this region, with the result that other Indians came there. In 1742, Céloron permitted some domiciliated Indians from Detroit to trade there, and he estimated the returns of their exploitation at some 200 packets of furs. Sieur Navarre, later sub-delegate of the intendant at Detroit, made an investigation of this trade, and his report was so favorable that

⁹⁴Minister to Beauharnois, May 2, 1740, *Ibid.*, B, 70:342-342v.

⁹⁵The Seneca to Beauharnois, Aug. 7, 1741, *Ibid.*, C¹A, 75:94.

⁹⁶Minister to Beauharnois, Versailles, Apr. 20, 1742, *Ibid.*, B, 74:468-469v.

⁹⁷Beauharnois to Minister, Quebec, Sept. 24, 1742, *Ibid.*, C¹A, 77:108-112v.

⁹⁸*Ibid.*, C¹A, 79:179-180. Joined to a letter of the governor to minister, Oct. 13, 1743.

⁹⁹John Ellis to Henry Morris, May 10, 1745, *Cal. of Va. State Papers*, I, 239.

¹⁰⁰Scandal rose at Detroit against De Noyan over this matter. It seems he had first treated with one Simon Réaume, but later favored Laguin for the place. Doubtless De Noyan helped equip Laguin and shared in his profits. That seems to have been Réaume's criticism.

¹⁰¹De Noyan to Minister, Detroit, Aug. 20, 1742, *Arch. Nat.*, Col., C¹A, 78:348-354v.

the governor ordered two canoes to be sent there annually. These canoes were to be equipped at government expense and the proceeds were to go to the king. It was estimated that each canoe would earn a profit of 400 livres annually.¹⁰²

Such was the status of affairs in that section just before the conspiracy of the western Indians against the French. That movement brought the Miami chief, *La Demoiselle*, to the front as the leader of these tribes. He welcomed English traders and soon built up a serious opposition to the French power in that region. De Bertet blamed him as the instigator of the threatened revolt in the Illinois in 1747, and actually planned a campaign into that section to destroy English influence.¹⁰³ Céloron's expedition into the Ohio was to be the answer of the governor to *La Demoiselle*.

At this point it becomes necessary to consider the war with the English and the part played by the west in that contest. Both sides expected a struggle on the lakes in the event of war, and, in 1741, the English are known to have considered building armed boats for use against those of the French. Such a force would make attacks on Forts Niagara and Frontenac more feasible.¹⁰⁴ This plan also included an attack on Louisbourg by sea. When Beauharnois heard of this plan he asked for artillery to arm the French barks, and even planned the immediate destruction of Oswego.¹⁰⁵ In 1742 he met the nations at Montreal and encouraged them in their wars with the Chickasaw, also cautioning them against the English.¹⁰⁶ In the meantime, French intrigue was active both north and south. Working through the Choctaw and the Spanish, they all but succeeded in turning the Creek against the English in Georgia, though Oglethorpe was finally able to hold his own against this peril, and to drive the Spanish invaders off the St. John's River. He reported the French influence as being very strong with the Catawba and Creek, and it was even believed that they were directing the Chickasaw and

¹⁰²Hocquart and Beauharnois to Minister, Quebec, Oct. 10, 1743, *Ibid.*, C¹¹A, 79:44-46; Navarre's report, *Ibid.*, 48-49^v, is joined to the above letter. An interpreter serving Navarre found at least ten nations in this region, including Seneca, Onondaga, Mohawk, Delaware, Abenaki, and Sauteur. There were about 500 to 600 men altogether according to this report, and the number was fast increasing. They welcomed the French traders, but did not wish to abandon the English, having learned that competition meant lower prices. The merchants at Detroit were said to oppose French trade in this region, charging that it damaged their trade. In 1744, two *congés* at 500 livres each were issued for the trade on the "River Blanche."

Beauharnois and Hocquart to Minister, Quebec, Oct. 14, 1744, *Ibid.*, C¹¹A, 81:39-40^v.
¹⁰³Vaudreuil to Minister, New Orleans, Apr. 8, 1747, *Ibid.*, C¹³A, 31:54-54^v. In 1749 an English trader was captured on the Wabash and sent to France, and there were rumors of an attempted English settlement in those parts. Vaudreuil to Minister, Sept. 22, 1749, *Ibid.*, C¹³A, 33:88^v. Same to same, New Orleans, Aug. 26, 1749, *Ibid.*, C¹³A, 33:58-58^v. This rumor may have grown out of the news of the organization of the Ohio Land Company, though this is doubtful. See *infra*, p. 96.

¹⁰⁴The French had two brigantines on Lake Ontario, though one was wrecked at about this time. This plan seems to have been advanced by Lieut. Gov. Clarke of New York. See Clarke to Newcastle, Apr. 22, 1741, *Doc. Rel. to the Col. Hist. of N. Y.*, VI, 182-184. Clarke later detailed his scheme, which included the sending of a land force as well. He estimated 800 men were needed to build the vessels at some harbor on the lake and to protect the works. Clarke to Newcastle, June, 1743, *Ibid.*, 227 ff.

¹⁰⁵Beauharnois to Minister, Quebec, Oct. 24, 1742, *Arch. Nat., Col.*, C¹¹A, 77:113-134^v.

¹⁰⁶See account in *Wisc. Hist. Coll.*, XVII, 380-409.

Cherokee as well.¹⁰⁷ In New York, rumor had it that the French, through their control of the Onondaga and Seneca, were ready to destroy Oswego, and it was said they could have accomplished this at that time without opposition from the Iroquois.¹⁰⁸

When the war broke out with the English in 1744, Beauharnois planned to take the offensive at once. He hoped to organize the western Indians into two groups for two campaigns—the one to operate against the English in the Ohio valley and farther to the east, and the other to move toward the north and attack the Hudson Bay posts.¹⁰⁹ Accordingly, the Indians in the neighborhood of Michilimakinac and the post at Temiscamingue were to be assembled for an attack on the Hudson Bay posts in the following spring. The Indians of the neighborhood of La Vérendrye's posts were also to take part in this campaign, which, however, did not materialize.¹¹⁰

As for the attack planned upon the English on the Ohio, it fared little better. The Indians at Detroit and the Wea post were encouraged to take up the hatchet along with some from the Miami. This resulted in a considerable party being fitted out, consisting mostly of Ottawa. The party went into the Ohio country, but accomplished little or nothing, such an operation being too far from the base of supplies.¹¹¹ In fact, the English officer at Oswego reported at the end of the year that it was not known that any French Indians had gone against the English.¹¹² Beauharnois himself wrote next year that lack of supplies had hindered the execution of his plan and had forced him to abandon all thought of offensive action for the time being.¹¹³

By the spring of 1746, considerable supplies had been received,¹¹⁴ and the governor was able to resume the offensive. In 1745, he had counselled with over 600 representatives of savage nations, one hundred fifty of whom were of the Six Nations. He was highly pleased with the responses of these and looked forward to their help in the war.¹¹⁵ That autumn, he

¹⁰⁷Oglethorpe to Clarke, Frederica, Apr. 22, 1743, *Doc. Rel. to the Col. Hist. of N. Y.*, VI, 242-243.

¹⁰⁸Rutherford to Colden, Albany, Mar. 2, 1742/43, Colden Papers, *N. Y. Hist. Soc. Coll.*, 1919, III, 9.

¹⁰⁹Beauharnois to Minister, Quebec, Oct. 8, 1744, *Arch. Nat., Col.*, C¹A, 81:144 ff.

¹¹⁰La Vérendrye, skillful as he was in diplomacy, was never able to secure the aid of his strong Indian allies (the Cree, Christineaux, Assiniboines, and Sioux) for such a hazardous undertaking.

¹¹¹Beauharnois to Minister, Quebec, Nov. 7, 1744, *Ibid.*, C¹A, 81:126-128v.

¹¹²See "Information of the Officer at Oswego abt Indian affairs, Decr 1744." *Penn. Arch.*, first ser., I, 665. Here he says: "We have made it our business to find out whether the Ffrench Indians had taken up the Hatchett against us; all we can learn is that at a Meeting between the Ffrench and Indians, severall flatt cattle were killed and presented the latter, The Ffrench dancing after the Method of the Indians with the Heads of Beasts in their Hands, saying, thus will we carry the Heads of the English. The Indians in their turns danced, but said, thus will we carry the Heads of the Fflatheads, which made the Ffrench look very down, as they undoubtedly hoped to have been Joyn'd." The reference to the "Fflatheads" means that the Indians preferred to fight the Chickasaw rather than the English.

¹¹³Beauharnois to Minister, June 7, 1745, *Col. de Doc.*, III, 228.

¹¹⁴Over 100,000 lbs. of powder, 2,000 muskets, and 80 pieces of small ordnance were sent, and more promised in the next convoy. Minister to Beauharnois and Hocquart, Mar. 2, 1746, *Can. Arch. Rep.*, 1905, I, 70.

¹¹⁵Beauharnois to Minister, Quebec, Oct. 28, 1745, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 19-21. The English were plagued to see the Iroquois go to Canada.

sent a group of officers among the western nations to lead them down to Montreal in the spring of 1746 to undertake raids against the English.¹¹⁶ The response to this call was very good, and large numbers came down.¹¹⁷ The French plan of offensive was to harass the borders of New England and New York by Indian raids. Large forces were concentrated near Montreal, to be ready in case the English carried out their threat to invade Canada from the south as well as by water from Quebec. Louisbourg having fallen in 1745, the English seemed likely to be able to accomplish this. The French had no intentions of making an attack upon Oswego, because such a policy would have alienated the Iroquois and very probably have driven them to fight on the side of the English.¹¹⁸

It would be tedious to attempt to trace in detail the different movements and campaigns undertaken by the French and Indians against the enemy. We shall notice only the more important. In November, 1745, a force of about 600 French and savages burned and plundered Saratoga, New York, taking over a hundred prisoners, mostly noncombatants. This was the first stroke of any importance, though small raids, chiefly against the New England settlements, were very numerous. During the winter, St. Pierre and De la Corne¹¹⁹ lay near Fort St. Frederic with over two hundred French and Indians, to protect that post from any surprise by the English. They were relieved in the summer by De Muy¹²⁰ with a force about 450 strong, consisting largely of western Indians. This force spent some time on Wood Creek, felling trees so as to prevent the enemy from using that stream to descend on Fort St. Frederic. In August, Rigaud de Vaudreuil collected over 700 men, 400 of whom were Canadian militia. After wandering about through the forests for some time, this force fell upon Brookfield, Massachusetts, destroying the place and taking some thirty prisoners. Orange, the real objective, was not even attacked.¹²¹ These raids put the English on the defensive, but otherwise had no effect except to terrorize the border settlements.

In the meantime, the English had collected provincial levies for the attack upon Canada, but the winter of 1746-1747 saw their forces dwindle away by death and desertion, while promised help from England failed

¹¹⁶Beauharnois to Minister, Quebec, Nov. 4, 1745, *Ibid.*, X, 27.

¹¹⁷La Corne, the elder, led down 192 from Michilimakinac, River St. Joseph, and *La Baye*, 80 of whom were women and children. *Arch. Nat., Col.*, C¹¹A, 87:70. A study of expense accounts shows that 520 western Indians of the different nations took part in the activities of 1746.

¹¹⁸Beauharnois to Minister, Quebec, 1744, *Ibid.*, C¹¹A, 81:146-149. All the English forts in New York were said to have been poorly garrisoned, but the French did not take advantage of this if indeed they were aware of it. Rutherford to Colden, Colden Papers, *N. Y. Hist. Soc. Coll.*, 1919, III, 112. The king suggested that the Seneca might be prevailed upon to destroy the English post at Oswego at a later time. Minister to Beauharnois, Versailles, Apr. 26, 1745, *Arch. Nat., Col.*, B, 81:34-34^v. Nothing, however, came of this. See King to La Jonquière, Apr. 1, 1746, *Ibid.*, B, 83:29^v-30.

¹¹⁹Luc de la Corne, Sieur de St. Luc, (1711-?), must not be confused with La Corne Dubreuil. Rigaud de Vaudreuil was a brother of the Louisiana governor.

¹²⁰Jacques Pierre Daneaux, Sieur de Muy (1695-1758).

¹²¹The chief source for the military movements given above is the Journal of Occurrences, 1745-1746, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 32 ff.

to come. However, the English did succeed in arousing part of the Six Nations to take the offensive against the French. Sir William Johnson had worked on this project since the beginning of the war and had succeeded so far as to get the Mohawk to make raids on the French near Montreal in 1745. Beauharnois, in the spring of 1746, collected his Indians and declared war on the Mohawk and rebellious elements of the Iroquois about the Sault and the Lake of the Two Mountains who had been aiding the enemy.¹²²

The rest of the Six Nations remained neutral, but the Mohawk made serious attacks upon the French in the summer of 1747, though the last raid in June of that year was broken up with loss. La Corne estimated thirty to forty persons had lost their lives as a result of these raids, not including the last one in which several more lives were lost. In this case, however, the raiders themselves were nearly all killed or taken.¹²³ This stinging defeat at the hands of the French dampened the spirits of the Mohawk. Johnson himself was forced to admit that he was losing his influence with them, and they soon returned to their war with the Catawba in spite of his efforts.¹²⁴ In 1747, M. de Rigaud gathered a force of over 1,000 men with which he intended to block the threatened English attack on Fort St. Frederic. Most of the Montreal troops took part in this campaign, as a consequence of which it was necessary to transfer three hundred Quebec militiamen to defend Montreal. The expedition, faced with the usual difficulties of maintaining discipline among numerous savage allies, accomplished nothing and returned to Canada in July.¹²⁵

The heavy expenditures for these campaigns soon exhausted the resources of the Montreal stores, while those at Quebec were in a similar condition due to the expenditures in the Acadian region. The burden of supporting the Indian allies was becoming unbearable. By the close of the year 1746 the French would have been glad to rid themselves of this horde, which was drawing at least a third of the total issues from the Montreal stores.¹²⁶ A great part of the burden came from the fact that vagabond Indians now began to come to both Montreal and Quebec, at-

¹²²Journal of Operations, Mar. 8, 1746, *Arch. Nat., Col., C¹A*, 87:26. Johnson's alliance with the Mohawk was not popular. Weiser especially opposed it as being unpolitic in reference to the rest of the Iroquois Confederacy. Johnson insisted, however, that he could depend upon the support of all the Six Nations and said: "I will engage to bring 1,000 Indian Warriors into the field in six weeks time, provided, I have clothes, arms and ammunition for them or forfeit 1,000 pounds." Johnson to Clinton, July 17, 1747, *Doc. Rel. to the Col. Hist. of N. Y.*, VI, 386-387. For Weiser's argument, see Weiser to Peters, June 21, 1747, *Penn. Arch.*, first ser., I, 751. He said: "As to the Treaty of Col. Johnson and Mr. Lydias, with the Mohawks, I dislike it, and the Six Nations are offended at the people of Albany because we pay their people with goods against the opinion of the Chief Counsel." See also Weiser to Peters, July 20, 1747, *Penn. Arch.*, first ser., I, 761-762.

¹²³La Corne's report, Oct. 8, 1747, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 81-83. See also La Galissonière to Minister, Quebec, Sept. 15, 1747, in *Col. de Doc.*, III, 392.

¹²⁴Johnson to Clinton, Jan. 22, 1749/50, *Sir William Johnson Papers*, I, 261-262.

¹²⁵Abstract of Operations, 1746-1747, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 99 ff.

¹²⁶See expense accounts, *Arch. Nat., Col., C¹A*, 87:80-80v. These bills of issues from the Montreal storehouses are usually given in amounts only, the prices not being given for the individual articles.

tracted by the hope of getting rations. The authorities reported: "*Nous sommes surcharges de tous ces gens la.*"¹²⁷

In 1747, most of the Indians were encouraged to return home when St. Pierre's convoy went up to Michilimakinac.¹²⁸ At the same time La Corne was sent back to the west to recruit a new force for service in the following spring.¹²⁹ But, in spite of these new plans for offensive action, the minister ordered Canada to fall back to the defensive for the spring of 1748.¹³⁰ News of the general suspension of hostilities came in August,¹³¹ and both sides settled down to preparations for the renewal of the conflict which they were sure was to come in the near future.

It is appropriate at this point to give some account of French relations with the several Indian nations of the south and to show how the war with the English reacted upon French power in Louisiana. In order to understand conditions in that area at the outbreak of the war, it will be necessary first to sketch certain background factors.

The chief southern tribes were the Creeks, the Catawba, the Cherokee, the Chickasaw, and the Choctaw. Of these, the Cherokee were most powerful, numbering some 6,000 warriors. They were located on the upper Tennessee and ranged into the Carolinas and Georgia to the east. This great nation was friendly with the English and was not so warlike as the Chickasaw or Choctaw. The Chickasaw were located in the Yazoo country and had once been very powerful. At this time, however, they were reduced to only 600 warriors and were fast dwindling under the attacks of the Choctaw as well as of northern Indians, whom, as we have seen, the French encouraged to make war upon the Chickasaw. To the south and east of the Chickasaw in the Alabama uplands and the gulf region were the Choctaw, who could muster 4,000 fighting men. This nation was much devoted to the French, who encouraged their traditional hatred for the Chickasaw. To the north and east of the Choctaw were various smaller nations, such as the Alabama, the Abeka, and the Talapoucha, estimated to have all together some 2,000 warriors. These nations were loosely attached to the French, although receptive to English

¹²⁷A study of expense accounts shows that out of 104 issues made to Indians and others at Montreal from September 1 to December 1, 1746, 30 were made to western Indians. *Ibid.*, C¹A, 86:178 ff. These Indians returned to their homes in August of 1747. Over 1,200 drew rations during that month, but it is certain that many were rationed twice. La Corne's party of Sac, Pottawatomie, *Folles Avoines*, Miami, and Illinois, 130 in all, included 28 men, 31 women, and 21 children of these tribes. Each man was given a blanket, each chief a fine coat, and each child a blanket. There were also issued 400 lbs. of powder, 600 lbs. of lead, 146 pots of brandy, 300 lbs. of tobacco, and other articles. Food supplies included 3,000 lbs. of biscuit, 960 lbs. of bacon, 25 *minots* of peas, 26 *minots* of corn, etc. Hocquart in October, 1747, submitted a bill for 33,000 livres for expenses for these Indians. *Ibid.*, 303-304.

¹²⁸For equipment of this convoy, see *Ibid.*, C¹A, 117:304^v-306^v.
¹²⁹Expense accounts show that he went equipped for extensive negotiation. He carried nearly a hundred thousand beads of wampum and had five interpreters. La Corne Dubreuil and Bellestre were to assist him. *Ibid.*, C¹A, 117:176. *Ibid.*, 360 and 360^v-361, shows that this party actually visited the Miami and Detroit. The minister's order to resume the defensive evidently put an end to these plans to recruit a new force of savages in the west.

¹³⁰La Galissonière to Minister, Quebec, Nov. 6, 1747, *Col. de Doc.*, III, 399-400. Minister to La Galissonière, Mar. 6, 1748, *Can. Arch. Dep.*, 1905, I, 105.

¹³¹Journal of Occurrences, 1747-1748, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 174 ff.

intrigue because of their proximity to the Cherokee. The Creeks, a considerable nation, lived in the Georgia area and were allied to the English. To the north, on the Virginia-Carolina border, were the Catawba, a dwindling nation much subject to attack from the Six Nations, their enemies to the north. The Catawba relied on the English for protection. At the mouth of the Arkansas River lived the Arkansas Indians, who were staunch allies of the French.¹³²

As has been explained above, the French had allied themselves to the Choctaw, thus earning the hatred of the Chickasaw. In 1731 this tribe had given refuge to the Natchez, who after the massacre of 1729 were fleeing French revenge. Consequently, in 1736, Bienville had waged a campaign against the Chickasaw, which, however, resulted in the French being badly worsted. Failing afterward to destroy the Chickasaw through encouraging attacks upon them by their savage enemies, the French had finally resolved upon another military campaign, which it was hoped would finally crush the Chickasaw power. A joint expedition was to be undertaken by Canadian and Louisiana forces, these being assisted by a number of French regulars. These forces were assembled at Fort Prudhomme on the Mississippi late in 1739.¹³³ The lateness of the season, the ravages of disease among the troops, the great difficulties of the terrain, and the procrastination of Bienville, who was in command, doomed the expedition to failure, and Bienville was finally content to sign a doubtful truce with the enemy, whom he had hardly been able to contact.¹³⁴ In the face of criticism resulting from this fiasco, Bienville tendered his resignation from the governorship of the colony.¹³⁵

The Chickasaw continued to give trouble during the next few years, raiding convoys on the Mississippi frequently, and often penetrating into the lower Ohio. Bienville contended that part of this trouble was due to the fact that the Canadian government had refused to stop northern raiding parties from going against the Chickasaw.¹³⁶ Later, however, being

¹³²On numbers and location of the several southern tribes, see the Memoir on the State of the Colony of Louisiana in 1746, *Arch. Nat., Col., C¹³A*, 30:259-260; Pouchot, *op. cit.*, II, 259 ff.; Memoir of De Richarville, 1739, *Arch. Nat., Col., C¹³A*, 4:202-205; Governor James Glen to Lords of Trade, Feb., 1747, *Public Record Office, Col. Off.*, 5, v. 372, 113; James Adair, *History of the American Indians*, 227, 232.

¹³³Beauharnois to Minister, Quebec, Sept. 22, 1738, *Arch. Nat., Col., C¹¹A*, 69:96-97; Hocquart to Minister, Sept. 30, 1739, *Ibid.*, *C¹¹A*, 69:236-239.

¹³⁴The best source for information on this campaign is the *Buache Ms.*, a journal kept by one of the French regular officers, and now in possession of the Chicago Historical Society. Bienville's journal has been printed in *Quebec Archives Reports*, 1922-23, 166 ff. A journal kept by Céloron de Blainville, one of the Canadian officers, is also printed in *Ibid.*, 157 ff. Shorter accounts may be found in Le Mascrier's *Dumont*, vol. II, and in Le Page Du Pratz, vol. III. A full account of the campaign is given in the author's "The Chickasaw Threat to French Control of the Mississippi," *Chronicles of Oklahoma*, XVI, 4 (Dec., 1938), 468-474.

¹³⁵Bienville to Minister, New Orleans, June 18, 1740, *Arch. Nat., Col., C¹³A*, 25:112-113^v. The campaign cost nearly 1,000,000 livres! Bienville's successor, the Marquis de Vaudreuil, did not arrive in Louisiana until May 10, 1743.

¹³⁶See Bienville to Minister, April 30, 1741, *Ibid.*, *C¹³A*, 26, 81-87; same to same, Sept. 30, 1741, *Ibid.*, 97-106; Salmon to Minister, May 4, 1745, *Ibid.*, *C¹³A*, 25:159-164^v. The Canadian governor of course refused to recognize Bienville's "peace."

hard pressed by their enemies north and south, the Chickasaw did show signs of desiring peace.¹³⁷

Bienville's failure against the Chickasaw dealt a serious blow to French prestige in Louisiana. Undoubtedly it was in part responsible for the defection of the Choctaw, which we shall note below, and its influence was noticeable as far away as the Illinois country, where Father Mercier reported that the news of the failure of the campaign had "strangely indisposed" the Illinois Indians against the French.¹³⁸ Some of these Indians were already interested in trading with the English on the Ohio, and one chief showed a noticeable sympathy for the Chickasaw.¹³⁹ The discovery of two canoes of Virginians on the Mississippi in the spring of 1742 caused the French to grow more uneasy in this regard.¹⁴⁰ Steps were actually taken in the Illinois country to prepare against a revolt in 1742, but nothing came of the matter.¹⁴¹

The result of the threatened revolt in the Illinois country was to force Bienville to prosecute the war on the Chickasaw with more vigor. Such heavy blows were dealt this tribe by Choctaw raiding parties in 1742 and 1743 that Bienville upon his retirement from office could report the Chickasaw power as being virtually broken.¹⁴²

At this juncture the French suddenly found themselves faced with a revolt among the Choctaw. This movement was due to the most part to the scarcity of goods at the French posts resulting from the war with the English. However, the loss of French prestige as a result of the Chickasaw campaigns is also important. Then, too, one faction of the Choctaw had been trading with the English for several years. This faction, composed chiefly of the more remote towns, was led by the chief Red Shoe and his brother Mingo, who had established connections with James Adair, the noted English trader among the Chickasaw and Cherokee. Adair succeeded in making an alliance with Red Shoe and his followers, while Vaudreuil was finally forced to ask the loyal Choctaw to make war on the rebels. The French were somewhat strengthened in 1745 by the arrival of adequate supplies of merchandise and so sent an embassy to the rebel towns demanding Red Shoe's head. Though the embassy failed in this accomplishment, the French by withholding supplies from all the

¹³⁷Bienville to Minister, Sept. 30, 1741, *Ibid.*, C¹³A, 26:97-106.

¹³⁸Father Mercier to ———, Tamoroa Mission, May 27, 1741, *Ibid.*, C¹¹A, 75:214-214^v.

¹³⁹*Ibid.*, C¹³A, 27:85-86^v.

¹⁴⁰Bienville to Minister, New Orleans, July 30, 1742, *Ibid.*, C¹³A, 27:83-84. These men were Virginians, who seem to have been "exploring" the rivers. See the journal of John Peter Salling, a German who was with the party, in *Louisiana Historical Quarterly*, V, 3, 323-332. (The original is in the *Public Record Office, Col. Off.*, 5, v. 1327, W65). See also the petition of John Heyward, leader of the party, asking the English king to procure their release, in *Ibid.*, 321-322. These men were kept in prison at New Orleans for some years, and all eventually returned to English hands through escape or capture.

¹⁴¹Beauharnois to Minister, Oct. 12, 1742, *Arch. Nat.*, Col., C¹¹E, 16:257-265^v.

¹⁴²Bienville to Minister, New Orleans, Feb. 18, 1742, *Ibid.*, C¹³A, 27:38-42^v; same to same, Feb. 4, 1743, *Ibid.*, C¹³A, 28:31^v-32^v. The Chickasaw indeed sought peace with the French after 1743, but the outbreak of the war with the English prevented anything being accomplished. Except for minor raids, such as that on the Arkansas post in 1749, the Chickasaw gave no further trouble in this period.

towns succeeded in arousing the opinion of the majority against Red Shoe's faction.

In the meantime James Glen, the new English governor at Charleston, had become aware of conditions and had seized upon this opportunity to break the French hold on the Choctaw, which, if accomplished, might well have resulted in the loss of Louisiana to the French. Though Glen succeeded in securing considerable help from the legislature, he bungled the negotiations which he conducted with the Cherokee and the Creek, and by failing to secure the cooperation of Adair and other traders, he also lost their support, this being serious in itself. A new trading company, founded by Glen and his friends, failed to supply the rebellious Choctaw with the supplies they needed and so hastened the collapse of the rebellion. At the same time Glen lost the respect of the Cherokee and the Creek, his failure with the latter being largely due to his quarrel with the Georgia authorities over the distribution of the Indian presents. This quarrel was complicated by the fact that Mary Bosomworth, an alleged Creek princess, went into opposition to the English, taking with her a considerable element of the Creek nation. In the end the French not only succeeded in forcing the loyal Choctaw to deliver Red Shoe's head, but also practically exterminated the rebels.¹⁴³

The net result of the course of events during this period, as far as Louisiana was concerned, was beneficial to the French. They had at last practically destroyed the Chickasaw and had proved themselves able to put down a first class rebellion among the Choctaw. English prestige among the southern tribes suffered accordingly. In spite of Adair's contentions, it is evident that the English were not yet able to supply the interior tribes with merchandise, and hence could not expect to exert political control over them. Throughout the remainder of the French regime, the French power in the lower Mississippi valley was to remain practically unquestioned.

¹⁴³The story of the Choctaw rebellion and related problems during this period is discussed in detail in the author's "The Southern Frontier During King George's War," *Journal of Southern History*, VII, No. 1 (Feb., 1941), 37-54.

CHAPTER V

THE INDIAN UPRISING OF 1747 AND THE OHIO QUESTION

THE ENGLISH WAR caused the French to realize the danger of losing control over the Indians of the western country in both a political and an economic sense. Just as English penetration among the Cherokee and Chickasaw had by this time reached proportions which threatened French hegemony in the south, so also did penetration of traders from Pennsylvania and Virginia into the Ohio valley and the Great Lakes region bring home to the French in these parts the fear of losing their control over the western nations. The unrest of the Huron about Detroit and of the Ottawa at Michilimakinac in the earlier years of the decade under consideration is merely a prelude to this later trouble.

As soon as war broke out with the English, there resulted a great irregularity in the supply of merchandise for the western trade, partly because of unusual consumptions for war purposes,¹ and also because of interference on the part of English warships with French shipping. The English traders, on the other hand, were assured of more regular supplies, and were thus in a more favorable position to offer the savages the goods needed, much to the discomfiture of the French.

In 1745, M. de Longueuil wrote from Detroit that English traders were bargaining with the Indians about his post, telling them that the French would soon be driven from Canada, and that the English alone could be depended upon to supply the Indian trade. Longueuil says: "This news has had such a great effect in the villages of this post that they are constantly leaving without saying a word."² This was also reflected in the falling off of the interest of the savages in the war with the Chickasaw.³ At the same time, Beauharnois had thought it advisable to guard against any possible attack on the trading convoy as it went up to the posts. Rumors of an Anglo-Indian attack on the convoy as it passed the Niagara portage were bruited about at that time. Though the western Indians sought to reassure the French, the governor remained cautious.

¹From the usual channels of commerce, the government bought over 100,000 livres worth of goods as soon as the news of the declaration of war had reached the colony. This immediately caused a shortage of goods among the Montreal merchants. See Hocquart to Minister, Quebec, Oct. 29, 1744, *Arch. Nat., Col.*, C¹¹A, 82:159-159^v.

²Longueuil to Beauharnois, July 28, 1745, *Ibid.*, C¹¹A, 83:61. A study of the expense accounts of the western posts reveals that an unusual shortage of goods had existed in the west since 1740. It was in this year that the troops returning from the Chickasaw campaign were rationed at the western posts for the return to the east. Michilimakinac, being out of the way was not affected, however. As we have seen above, some relief came in the years 1740-1743 when goods became more plentiful. Nevertheless, consumptions remained heavy during the years 1741-1743 on account of outlays to Indians going against the Chickasaw. Then followed the war with the English which continued to aggravate the evil.

³*Doc. Rel. to the Col. Hist. of N. Y.*, X, 19-21.

Conditions in the west did not improve during the year 1746. Goods continued scarce among the French, and the English continued their intrigues among the savages, working chiefly through the Six Nations.⁴ In the early spring of the following year the French uncovered a well laid plot at Detroit in which it had been planned to make a surprise attack on the garrisons of the several posts. Fortunately a Huron woman had overheard the conspirators and carried the news to the missionary. The date of the outbreak had been set for one of the feasts of Pentecost. Longueuil immediately gathered all the people within the fort and made preparations for the defense of the place, with the meager force of only twenty-eight soldiers and the inhabitants. An additional handicap was found in the fact that supplies at the fort were low because this was the season just before the arrival of the spring convoy.

Longueuil suspected the English of being the source of the trouble, but it was difficult at the time to determine this, or even to learn what tribes were implicated in the conspiracy. At different times he conferred cautiously with the chiefs, and eventually concluded that the Huron were chiefly to blame, though even among this tribe there was a large loyal element led by the two chiefs—Sastaredzy and Taychatin. The Ottawa and Pottawattomie seemed at first to be loyal, or at least they led the French to think so. It was suspected that the renegade Huron, Nicolas, who had removed from Detroit to Sandusky, was the chief fomentor of the trouble. To divide the loyal from the disloyal, Longueuil insisted that those who kept their allegiance should go down to Montreal to get their presents according to custom, so that they might explain themselves to the governor, and so demonstrate their loyalty.

News of Indian raids accompanied by the burning of buildings and the slaughter of livestock now came in from the countryside about Detroit. The apprehension of the French at Detroit was increased by reports of the progress of the revolt at Sandusky, where five Frenchmen had been killed, and also at Michilimakinac where the Indians had risen. Then, too, the situation at Detroit grew worse with the spread of the rebellion among the Pottawattomie and the Ottawa, it being learned that these tribes had agreed to take possession of an island nearby which would enable the savages to control the eastern water passage to the post.⁵ Widespread plots were uncovered in July, involving nearly all the tribes about Detroit in the conspiracy. The discovery of the scope of the conspiracy led the French to suspect that even the Chickasaw might have had

⁴Beauharnois to Minister, Oct. 15, 1745, *Arch. Nat., Col.*, C¹¹A, 83:99^v-100^v. The governor ordered Longueuil at this time to raise an Indian force to assist in the defense of Niagara if necessary. For information on the scarcity of goods in the west and its relation to the trouble, see La Galissonière to Minister, Oct. 22, 1747, *Ibid.*, C¹¹A, 87:260-261.

⁵The island was called *Isle aux Bois Blancs*. The chief sources for the study of the revolt are the "Memoir of Canada of 1747," by De Berthelot, *Arch. Nat., Col.*, C¹¹A, 87:16-21, and the "Journal of Occurrences of 1746-1747," in *Ibid.*, 22 ff. See also *Doc. Rel. to the Col. Hist. of N. Y.*, vol. X, pp. 83 ff.

a hand in it. No man dared leave the fort to go any distance away, and no crops were planted at Detroit that year.

In the meantime, Sieur Bellestre,⁶ accompanied by the loyal chiefs, had made his way to Montreal, arriving there in July. He had with him several Detroit Ottawa, four Huron, including Sastaredzy and Taychatin, and a few other Indians. This group with a few others from other posts of the west made up the total of western Indians who came down to pay their respects to the governor that year. The general went into conference with them, seeking by diplomatic means to discover their grievances and to apply remedies. One of the requests made by the Huron was that the Jesuit, La Richardie, be returned to the Detroit mission, this being, as they said, one of the steps most necessary toward the restoration of order there. The general was obliged to comply with this, despite his dislike for the Jesuit.

While soothing the chiefs as well as he could, Beauharnois also gave orders for measures to be taken at the posts to stem the uprising. Bellestre was ordered to take over the command at River St. Joseph, and to serve as assistant to the Detroit commandant. M. de Longueuil was instructed to use his own judgment as to what course to follow in dealing with the revolt, except that he was to hold a firm course in demanding that those Indians who had murdered Frenchmen be surrendered for punishment, and that other rebels should prove their loyalty by turning against the English and bringing in scalps. The trading convoy was sent off for the west, after a long delay, guarded by a force of about one hundred men under Sieur Dubuisson.⁷

While the convoy experienced no difficulty in going up to the posts, French policy was weakened at this time by the outbreak of sickness among the loyal Indians who were returning with the convoy. Sastaredzy and Taychatin, head chiefs of the loyal element of the Huron, died. The loss of these two chieftains not only removed two of the most loyal friends of the French at Detroit, but it led the French to fear that the Huron rebels might suspect that foul play had resulted. Then, too, the departure of La Richardie was long delayed, poor health preventing his going up to Detroit that year.

When Dubuisson's convoy reached Detroit, Longueuil was reassured. He immediately took steps to answer calls for help from the Illinois and other nearby posts. Bellestre with twelve men was sent to River St.

⁶Marie François Picoté, Sieur de Bellestre (1719-?), spent most of his life at Detroit. He surrendered the place to the English in 1760. Bellestre had gone to the west with La Corne during the winter to recruit warriors for service at Montreal. *Arch. Nat., Col., C¹¹A*, 87:75-77. He reached Montreal July 24, 1747.

⁷Dubuisson, whose full name does not appear, held various commands in the west, 1719-1748. In 1760 he was wounded at Quebec. For the equipment of this convoy, see expense accounts, *Arch. Nat., Col., C¹¹A*, 117:279-281^v, 308-309^v. The force guarding the convoy consisted of eighty militia and a score of Abenaki, Iroquois, and Nepissing savages. Every effort was made to send up adequate supplies. The equipment for La Richardie's canoes was almost lavish, and his return to Detroit is certainly a striking contrast to his recall in 1742.

Joseph to take over the command there; La Pérade⁸ with a small force was sent to the Wea post; and a few troops were sent to the Illinois in answer to De Bertet's plea for help.

Despite the fact that Longueuil was re-enforced at Detroit, he was still faced with an alarming shortage of provisions. The reasons for this are to be found in the fact that no crops were raised there in 1747, while the additional men sent up with the convoy, though bringing some food supplies, necessarily increased consumption. Then, too, the loyal elements of the Huron and Ottawa remained at the fort for rations, while the French dared not let them know how indigent they really were. Also new outbreaks occurred shortly, a series of attacks leading to the death of a settler at the hands of some Sauteur, who were reported to have sent the scalp to the English. At the Wea post, several Frenchmen were seized and held by the Miami as hostages. This was done at the instigation of the chief of the Sandusky Huron, Nicolas, who was fearful that some of the revolting savages were trying to treat with the French. It was reported that English traders at Sandusky were furnishing arms and ammunition for the support of the rebellion, and that these people were considering the establishment of a settlement there.

A second convoy was despatched under the command of St. Pierre, who was to take over the command at Michilimakinac; these canoes carried substantial re-enforcements in lead, powder, and other supplies.⁹ The situation at Detroit now became more settled. A show of force on the part of the French, and the arrival of considerable goods for the trade had had a salutary effect.¹⁰ That autumn, Nicolas and two other Huron chiefs began to make offers of peace, and deputies were sent to Longueuil.

While Longueuil was treating with these savages, wild rumors arrived telling of a raid against the French at La Grosse Isle near Detroit, it being first reported that three Frenchmen were slain. The deputies of Nicolas evidently knew the identity of the evil-doers. Fearing for their own safety, they told the French where the five men who had made the stroke were to be found, and a force sent out after them easily took four of them, and slew the fifth. These four—a Huron, a Seneca, and two Mohawk—were put into irons. Although reports soon came that none of the French who had been attacked had been killed, Longueuil was now in position to bargain effectively with the rebels. The Huron, because they had revealed the identity of the outlaws, had drawn upon their heads

⁸Charles François Xavier Tardieu, Sieur de la Pérade, de la Naudière (1710-1775).

⁹See expense accounts in *Arch. Nat., Col., C¹A*, 117:286 ff. Ten thousand beads of wampum and 640 pots of rum and brandy were sent for use in conferences. Supplies of lead and powder sent were less generous, Detroit getting only 1,800 lbs. of powder.

¹⁰The effect of the rebellion on the volume of trade has been discussed under the subject of the fur trade. What furs were collected at Detroit had to be held there for some time for fear of their loss in transit to Montreal.

the wrath of their confederates, and the tribe was obliged to intrench itself for protection against an anticipated attack. An open attack against the French was likewise rumored.

However, nothing came of these threats, and Ottawa and Sauter from Michilimakinac and Saginaw soon came to ask pardon for those of their people who had killed Frenchmen. Early in January, the Huron from Sandusky also sent a deputation asking for the release of the prisoners held at Detroit. Acting upon the advice of the French and Indians at the post, Longueuil acquiesced and released the captives, though he seems to have had no definite promises from the rebels, particularly those at Detroit.¹¹ For this act, he was later censured by the government, since the policy of exemplar punishment for the rebels had been advocated. That this move was the politic one, however, was shown when in the following April, a general conference of Ottawa, Pottawatomie, Huron, and Sauter was held at Detroit, at which all these tribes returned to French allegiance. When the convoy came up that summer with abundant supplies, the revolt was definitely over. That same year the tribes about Detroit went down in full force to meet the governor.¹²

Michilimakinac, as we have seen, had also experienced the rebellion. Here the Ottawa, Sauter, and Mississague were affected. In 1747, three Frenchmen were killed while on their way from Detroit to Michilimakinac, and two canoes going to the posts of La Vérendrye were attacked near the entrance to Lake Michigan, one being lost with the crew of eight. Another man was stabbed in the vicinity of the post itself. All these things occurred in the absence of La Corne, the commandant, who had just gone down to Montreal with a band of western Indians who were to serve in the campaigns against New England and New York. St. Pierre was sent to Michilimakinac to take over La Corne's command, and De Verchères, the new commandant at *La Baye*, was ordered to assist him. No trading was to be attempted at the latter post until conditions became settled.

Disturbances also occurred at the more distant posts. A *voyageur* was robbed of his goods near Kamanistiquia, but no life was lost. Though conditions on the whole remained unsettled, some of the trading canoes continued to go out as before. Among the chiefs who worked for peace was the Ottawa, Pandalouan, who had done so much to influence his people to settle at *L'Arbre Croche*. He went down to visit Beauharnois in 1747, and did much to restore good relations between his people and

¹¹Only three of the five were alive. As mentioned one had been killed when they were taken, and a second, the Seneca, had committed suicide when apprehended in an attempt to break jail. The others were released. The capture of these rebels, however, did nothing to intimidate Nicolas, "who always acts insolent and who has retired with some vagrants and English, where they are making threats." Madame Bégon to her son, Nov. 14, 1748, *Quebec Arch. Rép.*, 1934-35, 5.

¹²Longueuil's policy of conciliation was undoubtedly wiser than the policy of revenge advocated by Quebec officials far removed from the site of the trouble.

the French. When St. Pierre arrived at Michilimakinac with a large force and plentiful supplies, the trouble soon disappeared.¹³ This convoy reached its destination in forty-five days, without mishap, and in view of the general peaceful conditions prevailing there the traders were sent out at once, although the governor had advised holding them at the fort so as to force the savages to come to the French to trade. This was a part of the governor's policy of bringing the Indians to surrender the members who had been guilty of murdering Frenchmen in the revolt. La Galissonnière, the new governor, was especially committed toward a policy of punishment.

In the spring of 1748 the savages about Michilimakinac sent deputies to Montreal as usual, eighteen canoes setting out. They surrendered to the governor one of the rebels who had murdered a Frenchman, and this man was immediately placed in chains. This action was not pleasing to the savages who had not expected such harsh treatment. Nevertheless, they were forced to give up a second man whom the French had discovered as being one of those guilty of the attack on the canoes near the entrance of Lake Michigan. A few days later, the Indians from *La Baye* surrendered a third man.

The governor now seemed likely to succeed in his policy of chastisement, but an unfortunate accident changed affairs completely. As the three prisoners were being removed from Montreal to Quebec, they escaped by killing the soldiers who were conducting them.¹⁴ The governor, greatly incensed, vainly tried to apprehend the fugitives as well as to discover those who must have assisted them to escape. The savages never formally atoned for their rebellion, and, though the governor still insisted that they must be brought to account, the post officers and traders seemed content from past experience to accept the restoration of peace as it was.¹⁵

It seems difficult to unravel the train of events in the Miami country at this time. The killing of the five French traders near Sandusky in 1747 was charged to Nicolas and his Huron village, but proof of this is

¹³Large supplies of food were sent with this convoy, including 9,600 lbs. of flour, 150 *minots* of corn, 70 *minots* of peas, 480 pots of brandy, and 160 pots of wine. There were also 30,000 beads of wampum sent for purposes of negotiating with the Indians. *Arch. Nat., Col., C¹¹A*, 117:304^v ff.

¹⁴This happened on Lake St. Pierre, just below Three Rivers. The three prisoners were doubtless aided by confederates from the shore. Being held in chains was considered by the savages as worse than death at the stake. The Detroit Indians were also represented in these conferences, the convoy of that year (1748) having created a very favorable impression as it went up under command of Céloron with over one hundred Frenchmen and Indians as guards. The number of *voyageurs* was also impressive. La Galissonnière to Minister, Quebec, Oct. 23, 1748, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 182.

¹⁵The western Indians, who had gone down to Montreal with La Corne just before the outbreak of the rebellion, do not seem to have been tainted with the revolt. Though they returned in large numbers in 1747, this was with French approval. The policy of punishing the Indians severely for insults to the French was extolled by some as most fitting. De Verchères at *La Baye* killed some Sauteur in 1748 for insults they gave, an act which Madame Bégon thought most proper. "If one had always chastised these nations, they would not be so insolent." Madame Bégon to her son, June 10, 1749, *Quebec Arch. Rep.*, 1934-1935, 73.

lacking.¹⁶ Since no garrisons were ordinarily kept in that region, the sending of small forces there had the effect of restoring order and preventing further outbreaks. The Wea and Pottawattomie seemed to be generally loyal to the French, except at the Miami post where bad conditions existed.

In this vicinity was located the notorious Miami chief, *La Demoiselle*, whose relations with the English became known about this time, and whose insolence increased as the years went by. It was soon rumored that this chief had offered rewards for the scalps of both Douville, the commandant at the Miami post, and Longueuil at Detroit.¹⁷ The Miami fort had been partly burned in 1747, and Dubuisson, who was sent there by Longueuil in the summer of that year, was able to do little more than to hold his position without attempting to repair the place, or to punish the murderers of a sixth Frenchman killed during the winter. Dubuisson negotiated with *La Demoiselle*, who was holding captive certain Frenchmen. In 1748 it was reported that the chief had returned to French allegiance. This seemed more likely because in that year plentiful supplies of merchandise were sent there. As we shall see, however, *La Demoiselle* really remained an enemy of the French.

As for Nicolas, he remained hostile and was said to have received the scalp of the Frenchman killed near the Miami in 1747. During the same winter he was reported to have been twice visited by Pennsylvania traders. Shortly thereafter he led his people away from the Sandusky locality and went either to *La Demoiselle's* village or to some place in the upper Ohio. The exact location of this tribe after 1748 is a mystery.

In the Illinois, though there was no actual revolt, rumors circulated to the effect that such a move was planned. As early as 1745, De Bertet had complained that the Illinois, though drawing out liberal amounts of powder and lead and other supplies for use against the Chickasaw, had been bringing in practically no scalps.¹⁸ This report led Vaudreuil to threaten to punish these Indians unless they gave a better account of themselves.¹⁹ Early in 1747 the French became aware of the fact that strange Indians were visiting the Illinois, proposing an alliance with the English. De Bertet, upon discovering these movements, immediately prepared for possible trouble.²⁰ Fort Chartres was in very bad repair, while the magazines there contained only a few hundred pounds of powder.

¹⁶Weiser gives us this idea of the identity of the guilty ones: "The Five French Indian Traders that were killed on the South side of Lake Erie, have been killed by some of the Six Nations (there called Acquanushioony, the name which . . . signifies a Confederate)." *Penn. Col. Rec.*, V, 86-87.

¹⁷*La Demoiselle's* village, Pickawillany, was located on the Great Miami near the modern Piqua, Ohio.

¹⁸Vaudreuil to Minister, New Orleans, Oct. 30, 1745, *Arch. Nat., Col.*, C¹³A, 29:90-91^v; Minister to Vaudreuil, Versailles, Apr. 30, 1745, *Ibid.*, B, 83:16.

¹⁹Vaudreuil to Minister, Mar. 15, 1747, *Ibid.*, C¹³A, 31:21^v-22.

²⁰See Journal of Occurrences, 1747-48, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 142 ff.; Vaudreuil to Minister, March 22, 1747, *Arch. Nat., Col.*, C¹³A, 31:42-45, etc. It was at this time that the Illinois and Shawnee fell out.

Supplies of merchandise were likewise low, there being not a single ell of cloth in the stores. It had been fifteen months since De Bertet had received supplies from New Orleans, while trade with Canada was shut off.²¹ Under these circumstances, it seemed advisable to collect the soldiers and inhabitants at Kaskaskia, to abandon the outlying settlements, and to call on Detroit and New Orleans for help. The situation seemed all the more serious because it was feared that the southern Indians were involved in this plot with the Illinois.²²

Relief came in the autumn with the arrival of the convoy and the troops Longueuil had sent from Detroit. Nevertheless, the Illinois and Piankeshaw did attack the Shawnee, this being one of the reasons for the removal of the latter from the lower Ohio where they had located in 1745.²³ The following spring, De Bertet sent the chiefs who were suspected of being implicated in the conspiracy to New Orleans, where the governor interviewed them. Vaudreuil concluded that De Bertet's suspicions were largely unfounded, and the chiefs were sent back home exonerated.²⁴ However, roots of the conspiracy were still to be found in the Illinois as late as 1750, especially in relation to *La Demoiselle* and his machinations on the Miami. In that year the Kaskaskia and Cahokia were said to have received a belt from that direction. Rumor had it that *La Demoiselle* and his allies were to attack the French in the Illinois, and that the Missouri, the Osage, and the Sioux were to join in this enterprise.²⁵

Such is the story of the Indian uprising in the west. Besides causing the French great losses in trade, and weakening their power at a time when all available strength was needed against the English, it had also occasioned great expense.²⁶ More important still was the loss of prestige which the French suffered with the western tribes. To recover this lost prestige, some thought harsh measures must be applied to the late rebels. The minister was one who advocated this policy in the extreme.²⁷ But such a course was not practicable. Canada, weakened as she was by the war, was content that the rebellion had been broken up, while the situation in the Ohio country was also demanding attention. In Louisiana, Vau-

²¹No *congés* were issued from Canada for the Illinois trade in these years.

²²De Bertet to Sieur Lachine, trader at the Wea post, Oct. 20, 1747, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 152.

²³Vaudreuil to Minister, May 24, 1748, *Arch. Nat., Col.*, C¹³A, 32:64^v-65.

²⁴Vaudreuil to Minister, May 24, 1748, *Ibid.*, C¹³A, 32:63-64. The minister was also of the opinion that the end of the war with the English would remove all causes for further worry in the Illinois. Minister to Vaudreuil, Fontainebleau, Nov. 4, 1748, *Ibid.*, B, 87:15.

²⁵Benoist de St. Clair to De Raymond, Ft. Chartres, Feb. 11, 1750, *Wisc. Hist. Coll.*, XVIII, 58-60. These fears were partially founded on the fact that the Sioux had recently murdered three Frenchmen on the upper Mississippi, while the Missouri had also killed a trader and his slave.

²⁶In 1746-1747, over 75,000 livres were expended for this account. *Arch. Nat., Col.*, C¹³A, 117:91-93, 144-146. See chapter on political and financial administration, above.

²⁷Minister to La Jonquière, Marly, May 4, 1749, *Ibid.*, B, 89:66^v-67; Minister to La Galissonière, Versailles, Feb. 12, 1748, *Wisc. Hist. Coll.*, XVII, 11. The minister once ordered Vaudreuil to send troops to the Illinois to chastise the rebels. Minister to Vaudreuil, Versailles, Nov. 4, 1748, in *Arch. Nat., Col.*, B, 87:13.

dreuil was busy enough with the Chickasaw, who at this time had just raided the Arkansas post.²⁸

How far were the English to blame for the rebellion of the western tribes against the French? Naturally the French blamed the whole movement to English machinations with the savages,²⁹ but it would be difficult to prove that the English really knew what was going on at the time. As for their actually organizing the rebellion, it is certain that this was not done officially.³⁰ Of course, Croghan saw the opportunity of assisting the movement, and thought that if it were "purshued by some Small Presents," the French power about the Great Lakes could be destroyed.³¹ Weiser, working on the same hypothesis, sounded out the Indians of western Pennsylvania as well as some few Indians from the Lake Erie country, and reported that he had learned much could be done toward driving the French out.³²

It is to be observed that in both these cases, the English were acting after the rebellion had already started. They sought only to aid the movement, and with what success may be judged from the fact that Weiser was able to secure only two hundred pounds in goods from the Pennsylvania council to carry out this policy.³³ In New York, Clinton says he was aware of the movement in 1747, and that he had assurance of Indian aid if he would send a force to the west, but the trouble he was having with the assembly precluded his taking any action.³⁴

In November, 1747, some of the Ohio Indians came to Philadelphia for a council meeting, and complained that they had "only little Sticks & Hickeries, and such things that will do little or no service against the hard Heads of the French."³⁵ Though the legislature voted a large present for these Indians, Weiser advised against sending it, saying that only a few Indians about Lake Erie were really opposing the French.³⁶ The following July, some of the western Indians, chiefly Miami, came to Lancaster to treat with the English. It was at this council that these Indians seem to have been admitted into official English friendship for the first time. Even then only eighteen western Indians were present.³⁷

²⁸This stroke was made in May, 1749, by Chickasaw and some Choctaw, six Frenchmen being killed, and eight women and children taken. Vaudreuil to Minister, Sept. 22, 1749, *Ibid.*, C¹³A, 33:83-86^v. Even the Illinois convoy was in danger. Prisoners from this raid were surrendered to Gov. Glen of South Carolina.

²⁹De Raymond to Minister, Nov. 2, 1747, *Ibid.*, C¹¹A, 89:225-226. La Galissonière to Minister, Oct. 22, 1747, *Ibid.*, C¹¹A, 87:260^v-261; Longueuil to Beauharnois, July 28, 1745, *Ibid.*, C¹¹A, 83:61; De Berthelot's Memoir, *Ibid.*, C¹¹A, 87:16.

³⁰*Penn. Arch.*, first ser., I, 741-742. The proposition is here made that the French be attacked in the west, it being assured that success would follow.

³¹Croghan to Peters, May 26, 1747, *Ibid.*, I, 742.

³²Extracts from Weiser's letters, in Council Minutes, July 9, 1747, *Penn. Col. Rec.*, V, 84-86.

³³Minutes of the Provincial Council, Sept. 25, 1747, *Ibid.*, 119-120.

³⁴Clinton to Bedford, New York, Oct. 20, 1748, *Doc. Rel. to the Col. Hist. of N. Y.*, VI, 455.

³⁵The council first voted 150 pounds, and later about 800 pounds. The Virginia legislature added 200 pounds to this amount. *Penn. Col. Rec.*, V, 146-147, 150-151. Weiser took the first present up in 1747, at which time he recommended sending a larger one. This last present ultimately was made in merchandise, including among other things, 13 barrels of powder, 20 hundredweight of lead, and 40 guns. *Ibid.*, 194-198, 257-258.

³⁶Weiser to Peters, March 28, 1748, *Ibid.*, V, 212-213.

³⁷For details of the council, see *Ibid.*, 299-300, 307-319. Also Weiser to Peters, Aug. 4, 1748, *Penn. Arch.*, first ser., II, 11-12.

After the council at Lancaster, Weiser set out for the Ohio to deliver the presents voted the fall before, and to investigate conditions in that region. He had special instructions to look into the situation among the Shawnee.³⁸ His trip into the forks of the Ohio did no more than to carry to the savages the news of the peace which had been signed in Europe, and to blaze new routes for trade with the western nations.³⁹

So we conclude that English official aid to the revolt in the west came too late and in too small amounts to play any important part in the movement. The part played by private traders and rangers can only be surmised.

Inevitably, the cessation of hostilities in the west caused both sides to turn their eyes toward a future contest; for the peace of 1748 re-established the *status quo ante bellum* in the new world. In anticipating another struggle, the French in the west had good reason to study the lessons of the recent Indian revolt and the English threat by way of the Ohio. The French took a special interest in the Miami region, which was fast becoming a hot-bed of English intrigue. We have seen that De Bertet attributed the Illinois disturbance of 1747 to the machinations of *La Demoiselle*,⁴⁰ and many Frenchmen now began to consider the dangerous situation in the Ohio region as the result of shortsightedness in French policy. They called attention to the negligence and laxity which for years had allowed the English to encroach upon the French trade regions about the lakes. This had begun with the building of Oswego, which once tolerated, had continually grown as a menace to the French in the west; and, now, the English power had all but reached the Mississippi in its westward push.

De Raymond⁴¹ was one of the chief proponents of the policy of destroying the English influence in the Ohio. In 1745 he had ventured to present a memoir upon the dangers of tolerating the English traders in the Miami region. From this center he saw their poison tainting the savages about the French posts to the north and west. It was the English who had fomented the revolt of 1747, one of the opening strokes of which had been the killing of the French traders at Sandusky. De Raymond pointed out that had the growth of English influence been nipped in the bud, such occurrences had been impossible.⁴²

Nevertheless, he thought much could be done to alleviate the situation

³⁸*Penn. Col. Rec.*, V, 290-293.

³⁹*Ibid.*, 348-358. Weiser's journal kept on this occasion is also printed in Thwaites, *Early Western Travels*, I, 21-44.

⁴⁰Journal of Occurrences, 1747-1748, *Doc. Rel. to the Col. Hist. of N. Y.*, X, 142-143.

⁴¹De Raymond, in command at the Miami post, and attentive to the drift of things in that region, gives one of the best analyses of the whole Ohio question from the French point of view.

⁴²De Raymond to Minister, Nov. 2, 1747, *Arch. Nat., Col.*, C¹A, 89:225-228. Pouchot, writing with the benefit of experiences of the war in which France lost her colonies, was of the opinion that had she fortified the Miami region instead of the upper Ohio, she had been better off. His argument was that fortifications in the Miami region would have been effective in stopping English influence with the western Indians, while at the same time the English would not have been incensed at such action on the part of the French.

by securing a favorable peace at the close of the war then in progress. Such a peace to his way of thinking would provide (1) that the English should give up Oswego and forever renounce their claim to the Iroquois nations, (2) that they should renounce all claims of trading rights in the Ohio valley, and (3) that all English traders in that region should forthwith retire. What a contrast this was to the actual peace! No wonder this zealous officer wrote a year later: "*Plus de chemin pour aller au detroit, miamis, ouyatanons, illinois et misissipy.*"⁴³

La Galissonnière shared this feeling, though he felt it less intensely than the officer who had had direct contact with the problem. Nevertheless, by 1748, he had determined upon a policy of opposing the English on the Ohio and its tributaries by force, peace or no peace. It should be mentioned, incidentally, that the French had not yet suspected the English designs of colonizing on the Ohio as exemplified in the founding of the "Ohio Company" among the Virginians.⁴⁴

The English continued their policy of subsidizing the Indians who came to Oswego, with ammunition and supplies, encouraging them to continue to trade there and to oppose the French governor in his anti-English

⁴³De Raymond to Minister, Sept. 8, 1748, *Arch. Nat., Col., C¹A, 92:338^v.*

⁴⁴*Journal of Occurrences, 1747-48, Doc. Rel. to the Col. Hist. of N. Y.*, X, 170. Here La Galissonnière said: "Though we be at peace, every attempt of the English to settle at River à la Roche, White river, the Beautiful River, or any of their tributaries, must be resisted by force . . ." See also Margry, VI, 665. The writer seems to have in mind here only trading posts, not agricultural settlements. In spite of the possible interpretation which may be put on this quotation to the contrary, I am not convinced that the French were at this time actually aware of the plan of the Virginians to found a new settlement west of the Alleghenies. The founding of the Ohio Company goes back to Nov. 3, 1747, when Lieut. Gov. Gooch first mentions an application for transmontane grants. The Lords of Trade wondered why the Virginians had asked for royal permission to make land grants. "We desire you will acquaint us, as soon as possible, what Difficulties you are under with Respect to making such Grants as you mention." Lords of Trade to Gooch, Whitehall, Jan. 13, 1747/8, *Virginia Correspondence*, 408-409, *Pub. Rec. Off., Col. Off.*, 5, v. 1366. The Lords referred Gooch's letter to Newcastle, and also to the Privy Council and the king. Lords to Newcastle, *Ibid.*, 410, same date. In the meantime Gooch had replied (June 16, 1748), explaining that "these Lands lie upon some of the chief Branches of the Mississippi" and expressing the fear that "such Grant might possibly give some Umbrage to the French, especially when we were in hopes of entering into a Treaty establishing a General Peace." Quoted in Lords of Trade to Privy Council, Sept. 2, 1748, *Ibid.*, 411-412. This same source reveals the request of the Virginians for a grant of 200,000 acres, they to be given four years in which to survey the land and construct a fort for defense. The Lords approved the request, suggesting that "all due Encouragement ought to be given to the extending [*sic*] the British settlements beyond the Great Mountains." Their only qualm was to be found in the fact that people already settled in Virginia might be anxious to move out, leaving His Majesty's quit rents unpaid. *Ibid.*, 414-416. On Nov. 24, 1748, the Privy Council gave its approval to the scheme, ordering that no person already settled in Virginia was to remove westward unless he continued to pay quit rents in Virginia. Gooch was also instructed to make sure that the associates built a fort and provided for adequate protection for the settlers. Lords to Gooch, Dec. 13, 1748, *Virginia Corr.*, 422-425, *Pub. Rec. Off., Col. Off.*, 5, v. 1366. The grant itself was made on Feb. 23, 1748/9 under orders of the council dated Feb. 9, in favor of John Hawley, Thomas Lee, Thomas Nelson, Col. Cresap, Col. Wm. Thornton, Wm. Nimmo, Daniel Cresap, John Carlisle, Lawrence and Augustus Washington, Geo. Fairfax, Jacob Gyles, Nathaniel Chapman, and James Woodrop. The first three were English merchants or councilmen, the others Virginians. They were granted 500,000 acres "betwixt Romanettos & Buffaloes Creek on the South side of the River Alligane otherwise the Ohio and betwixt the two Creeks and the Yellow Creek on the North side of the River," though another site might be chosen if desirable. The associates were to receive 200,000 acres immediately, provided they agreed to send one hundred families west of the mountains within seven years. The land was granted free of quit rents for ten years, provided the company gave adequate protection to the settlers. As soon as this first grant was settled, the other 300,000 acres were to be granted. Lords to Privy Council, Whitehall, Feb. 23, 1748/9. *Virginia Corr., Ibid.*, 427-433; Lords to Gooch, same date, *Ibid.*, 434-439. The home government thus took a step calculated as "a proper Step towards checking the Encroachment of the French by interrupting part of their Communication from their Lodgements upon the great Lakes to the River Mississippi." Such an action was tantamount to renewing war with the French, who, however, were not yet aware of this. Lords to Gooch, Mar. 4, 1748/9, *Ibid.*, 439-443. Céloron, in making his trip into the Ohio, was looking for English traders, not land speculators.

policy.⁴⁵ That the English were not so confident of their success, however, is shown by Johnson's statement at this time, which gives a pessimistic outlook upon the ability of the English to turn the Indians against the French.⁴⁶ The French on their part decided to find out what the status of affairs in the Ohio country really was, by seizing the opportunity to send a force there, which would serve the double purpose of warning the English to leave the country, and of demonstrating to the savages the intention of the French toward them.⁴⁷

Under the command of the veteran Céloron, a force of two hundred French and thirty savages set out for the Ohio in the middle of June. Having reached Niagara, they made the portage around the falls, ascended Chautauqua Creek, which debouches near the outlet of Lake Erie, and made the portage to the upper Allegheny. Near the present Warren, Pennsylvania, Céloron buried the first of the famous leaden plates which declared the Ohio and its tributaries to be French. Others were buried at different points as the expedition descended the rivers. At Logstown the French found the English flag flying and ordered it taken down. The savages here and at Scioto farther down showed considerable hostility, though they dared not attack so large a force. The French commander not only harangued the savages, but he also ordered the English traders whom he found to leave the region, at the same time sending by them similar messages of warning to their governments. Though the size of the French force did something to awe the savages, Céloron's diplomacy was weakened by the fact that he carried no merchandise for the trade or for presents. It is also plain that his promises in regard to the establishment of French traders in that region were none too specific. Having reached the mouth of the Great Miami, the French expedition began the ascent of that stream, thus leaving the Ohio. At the mouth of Laramie's Creek they found the village of *La Demoiselle* and spent some days in conferences with this chief, in the course of which they secured his formal promise to return to the Miami post the following spring along with his people. After burning the boats and surplus baggage, the expedition then made the portage, arriving at the Miami post a few days later. Early in October the expedition reached the Detroit River and, having secured supplies and boats, descended to Montreal, arriving at this place in the middle of the following month.⁴⁸

⁴⁵Clinton to Bedford, May 30, 1749, *Doc. Rel. to the Col. Hist. of N. Y.*, VI, 484-485.

⁴⁶Johnson in a letter to Peter Warren on July 24, 1749, says: "It is that Interest with ye Indians that makes, our Neighbours the French an over match as we have woefully known this War. The Wolfe never Values how many the Sheep are, and it is a very unequal war between us & them." *Sir Wm. Johnson Papers*, I, 239.

⁴⁷The plans for this expedition seem to have been well guarded. The authority for it is in Minister to La Galissonière, Versailles, Jan. 2, 1749, *Can. Arch. Rep.*, 1905, I, 110. The purpose of the expedition according to Madame Bégon was "to hunt the English who have established themselves among the Miami and to make there a French establishment" Madame Bégon to her son, June 13, 1749, *Quebec Arch. Rep.*, 1934-1935, 74.

⁴⁸The journal kept by Céloron on this expedition may be found in Margry, VI, 666 ff. For the journal kept by Father Bonnécamps, the Jesuit scientist who accompanied the expedition, see Thwaites, *Jes. Rel.*, 69, 150 ff. Space does not permit a detailed account of the expedition here. An excellent account may be found in Parkman.

The effects of this expedition were immediate and far-reaching. The French had finally ascertained the real temper of the Indians in the Ohio valley, and the great difficulties they were to encounter in overcoming the English power in that region. Céloron himself gives us some conclusions on these points at the close of his journal: "I do not know by what means they (he refers to the Ohio savages) could be led back. If one uses violence, they will take refuge in flight. They have a handy place of refuge among the Flat Heads, from whom they are not far removed. If one chooses to penetrate there by commercial enterprise, our traders can never deliver merchandise at the price at which the English sell it, this by reason of the great expenses they will be obliged to make" He thought, on the other hand, that if an attempt was made to subsidize the Ohio trade, it would work to the prejudice of the trade at the other posts in the west, and so be harmful in the long run. As to the idea of setting up new posts in the Ohio region, there was also the inconvenience of additional expense. Such was the situation as seen by Céloron, a veteran observer of conditions in the west.

To the English, the sending of the expedition into the Ohio came as a great surprise. Croghan, after having word of the departure of the French force, thought that the course to be followed was that along the south side of the lake to the Miami country. He discredited rumors that the French were to go down the Ohio, thinking this a false report put out by the Virginians to deceive the Pennsylvanians in regard to the activities of the former in the Ohio land schemes.⁴⁹ In New York, on the other hand, the opinion was that the French actually intended to chastise the Ohio Indians who had favored the English during the late war, as well as to cut off the English trade in that region.⁵⁰ As to the effect of Céloron's expedition upon the Indians of the Ohio valley, it is certain that it did more harm than good. It was claimed that these Indians were on the brink of attacking the French party as it advanced, as indeed is borne out by the journals of both Céloron and Bonnécamps.⁵¹

In any case, both French and English began to act to secure all possible advantages in the Ohio region. In January, 1750, Johnson wrote: "The French were never so active among the Indians as at present . . . ," while at the same time he said the English were hampered by lack of support from the government.⁵² It was rumored that the French governor

⁴⁹Croghan to ———, July 3, 1749, *Penn. Arch.*, first ser., II, 31. The formation of a land enterprise in the Ohio valley by the Virginians had caused a good deal of jealousy on the part of the Pennsylvanians. See Lee to Hamilton, Nov. 22, 1749, *Penn. Col. Rec.*, V, 422-423.

⁵⁰Colden to Shirley, New York, July 25, 1749, *N. Y. Hist. Soc. Coll.*, 1920, IV, 126. The English also thought this a move on the part of the French to intimidate the Iroquois into signing a separate peace with them.

⁵¹The English traders of course paid no heed to Céloron's warnings that they cease to trade in the Ohio country. See Hamilton to Clinton, Philadelphia, Oct. 2, 1749, *Doc. Rel. to the Col. Hist. of N. Y.*, VI, 530-531. They felt secure in the protection of the savages with whom they traded.

⁵²Johnson to Clinton, Jan. 6, 1750, in *Ibid.*, 546.

meant to return that spring with another force, possibly to attack and destroy the Six Nations.⁵³ This led Johnson to prepare these Indians for any such contingency by advising them "to keep their Warriors home lest the French, who are a designing people, should surprise them" He also urged the governments of New York and Pennsylvania to "exert themselves so as to counterballance the Favors of the French."⁵⁴

At the same time, La Jonquière presented a strong protest to the English upon the subject of their activities in the Ohio region, accompanying this with copies of messages sent by the English at Oswego to stir up the savages against the French. He also charged that these messages were accompanied with war belts, the calumet, and English flags.⁵⁵ La Galissonnière, upon retiring from the governorship, drew up a long memoir on the state of the colony and its future, in which he advocated the immediate strengthening of the settlement about Crown Point, and the fortifying of Abbé Piquet's village on the St. Lawrence. He also condemned the existence of Oswego, and advised that twice as many troops be sent to the colony as were then there. He thought these measures would keep the English within their boundaries.⁵⁶

In the Illinois, another threat of rebellion among the savages appeared in 1750, seemingly as a result of Céloron's expedition. This movement was attributed to Croghan, who was said to be working through *La Demoiselle* on a scheme to get the nations in that vicinity to join with those of the Illinois and Missouri to destroy the French. The promise of cheap goods to be supplied by the English traders was to be the reward for those who took part in the movement. The French connected the murder of one of their people at River St. Joseph at this time with this conspiracy.⁵⁷ Though the watchfulness of Benoist and De Raymond seems to have prevented the outbreak, the French daily grew more alarmed at the growth of *La Demoiselle's* village and the corresponding English influence in that section. It was soon evident that force was the only means left to remove this menace to the French power in the west.⁵⁸ This course was approved by the minister, but he was not in favor of building new fortifications in the Ohio valley, at least to any extent. He argued that the forts at Detroit and Niagara would, if well garrisoned, be enough to keep the lakes open, especially since the building of the new

⁵³Johnson's meeting with the Mohawk, Feb. 2, 1749/50, in *Ibid.*, 548-549.

⁵⁴Johnson to Clinton, Feb. 19, 1749/50, in *Ibid.*, 547. In this letter he gave an exaggerated estimate of the plentiful supply of presents which the French were sending out to the Indians of the Ohio country, and the great danger that existed that they would win back the nations while the close-fisted assembly refused to vote presents.

⁵⁵La Jonquière to Phips, Quebec, Mar. 7, 1750, *Ibid.*, 565-566.

⁵⁶*Ibid.*, X, 227-229.

⁵⁷Benoist de St. Clair to Capt. De Raymond, Ft. Chartres, Feb. 11, 1750, *Wisc. Hist. Coll.*, XVIII, 58-62; Minister to Vaudreuil, Versailles, Sept. 26, 1750, *Arch. Nat.*, Col., B, 91:14; Minister to La Jonquière and Bigot, May 3, 1750, *Wisc. Hist. Coll.*, XVIII, 62.

⁵⁸Michel to Minister, New Orleans, July 3, 1750, *Arch. Nat.*, Col., C²A, 34:321-323. The minister had already approved of La Jonquière's sending a force against *La Demoiselle* under date of Sept. 30, 1750. Minister to Vaudreuil, Versailles, *Ibid.*, B, 91:22.

post at Toronto.⁵⁹ Though the French hesitated for the moment to extend their line of fortifications into the Ohio valley, this course was the next to be taken. The next few years were to bring the armed forces of both rivals face to face in the disputed region.

⁵⁹The post at Toronto was begun in 1749 with the purpose of intercepting trade that was going to Oswego by that route. La Jonquière's proposals of Sept. 20, 1749, were for the building of several commercial posts in the Ohio valley, with a fort near the headwaters of that river. La Jonquière to Minister, Quebec, Margry, VI, 727-728. The minister agreed to the establishment of one such post, but argued against an extensive system of works, on the ground that they would only serve to lengthen the frontier to be defended and thus further divide the forces of the colony. He also referred to the item of expenses involved in any large undertaking. See Minister to La Jonquière, May 19, 1750, *Can. Arch. Rep.*, 1905, 1, 133. The argument of La Galissonnière for such a post as well as his many reasons why the French should anticipate the English in such action are given in his memoir of 1750 in *Doc. Rel. to the Col. Hist. of N. Y.*, X, 229-230. See also Margry, VI, 665. La Galissonnière blamed the English that the French had not already settled the Ohio valley, meaning that fear of their interference had kept out French settlers. In connection with the proposed building of the forts in the Ohio region, it should be mentioned that the French had considered for several years the building of a fort near the mouth of the Ohio. After the Shawnee moved to that region in 1745 new interest was taken in the matter, and the permission of the government to begin the project was obtained. However, no money was made available, and in 1746, the project was dropped. The Shawnee as we have seen soon left that area, and dreams of gathering a strong community of savages there came to naught. The fort on the lower Ohio was considered quite as much in regard to the Chickasaw menace as in regard to that of the English. The subject is discussed in detail in the author's "Shawneetown—A Chapter in the Indian History of Illinois," *Journal of the Illinois State Historical Society*, XXXII, 2 (June, 1939), 193-205.

SUMMARY AND CONCLUSIONS

THIS STUDY of the French regime in the Mississippi valley during the 1740's seems to warrant the following conclusions:

(1) Concerning the political administration, it would be almost trite to point out that the constitution of the Old Regime was utterly unfit for the conditions of frontier life. Just as John Locke's "Fundamental Constitutions" failed to thrive in the Carolinas, so also did the semi-feudal constitution of France fail in the Mississippi valley. The attempt to regulate the lives of frontiersmen and traders at Detroit or Michilimackinac from Marly or Versailles was of course doomed to failure. However, in justification of the colonial governments, it should be pointed out that they might conceivably have given a better account of themselves had colonial finances been put on a sound basis, and more especially had adequate funds been provided. We are impressed that throughout this period the annual administrative expenses of France's chief colonies hardly equalled in amount the yearly pensions of single Versailles courtiers. Paternalism, unfit as it was to cope with problems of the new world, might still have been more successful had it been better supported financially.

(2) The imperative necessity of strengthening the colonies of Canada and Louisiana came to be realized by all thinking Frenchmen in this period. When it is recalled that the single English colony of New York had at this time approximately twice the number of inhabitants found in Canada and Louisiana combined, the need is all the more evident. Though the government gave much verbal encouragement to the increase of population, and especially to the development of agriculture, practically nothing of a concrete nature was done to meet these problems. It was, therefore, evident that if France was to maintain her hold on her North American colonies, both in controlling the Indians and in opposing English expansion, a large emigration from the mother country or other European nations to these regions was a necessity. That the government in this period contented itself with sending over a few convicted salt smugglers and a handful of bureaucrats seems hardly intelligible, even after allowance has been made for the ban on non-Catholic immigration to New France.

(3) In regard to the fur trade, we conclude that the French, though hard pressed by English competition in the eastern area, were still able to supply the continental markets with beaver. Though the English had firmly established their trade in the lower lakes region and in the upper Ohio country, it must be remembered that these disadvantages were more than offset by the extension of the French trading area to the upper

Mississippi region and (under the La Vérendryes) into the far northwest. Even the difficulties met during the war and the Indian rebellion in the upper country did not fundamentally alter things in this regard. In fact, beavers were already rapidly diminishing in numbers in the eastern region. It has also been shown that the English traders in the south were not yet able to challenge seriously the French hold on the lower Mississippi tribes. On the other hand, it has been pointed out that men like La Galissonnière foresaw the eventual decline of the fur trade in any case, and realized that agriculture must soon assume its rightful place as the basic occupation of New France.

(4) From our study of Indian affairs during this period we can only concede to the French their superiority in handling the savages. Considering the vast areas which they governed and the very great handicaps in supplying merchandise to the distant savages who had already become dependent upon the white man's goods, it is a wonder that the French managed as well as they did. The Indian rebellion in the upper country in 1747 and that of the Choctaw in the south can be largely attributed to the failure of the French to supply trade goods to the tribes, and not to any failure of French diplomacy. Under similar conditions the English might well have fared worse. We are assured that the French were ready to profit by the lessons drawn from these events.

(5) Finally, Frenchmen of this period realized fully the role of the colonies in the future struggle with England. The superiority of the English colonies in population and wealth was taken for granted. Despite great difficulties, France must strengthen her colonies, and particularly the western country, against the threatened English advance. In this struggle she could reasonably assume that she would be assisted by the bulk of the Indian nations of the interior. The fate of the French colonies was inextricably bound with that of the mother country in the great international struggle then at hand.

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THE OTTOMAN TURKS AND THE ARABS

1511-1574

BY

GEORGE WILLIAM FREDERICK STRIPLING

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FOREWORD

IN RECENT DECADES, a noteworthy rejuvenation has been taking place in the Near East, suggesting the advent of new phases of greatness for various peoples which have had in the past one or more periods of splendor. Greeks, Persians, Jews, Turks, and Arabs have seen visions of enhanced importance in the modern world.

The nations of the West, today using the lands, waters, and skies of the Near East as a vast stadium for their games of war, are in unprecedented need of understanding man's previous activities there. As one of the oldest scenes of human effort, knowledge of its ancient history is relatively abundant, and is in process of steady increase from the labors of keen archaeologists. Not so much has been known or sought for as regards medieval and modern times, largely because the main stream of related events which flowed toward western civilization became divided some sixteen centuries ago; the eastern branch went away through the Byzantine and Saracen Empires to a medieval multiplicity of states, and thence to the wide-flung unity of the Ottoman Empire, itself to be subdivided progressively after 1683.

The Ottoman Empire was in some aspects cosmopolitan, taking in lands of Asia, Europe, and Africa, and peoples separated by race, language, religion, and tradition. But the leadership remained throughout in a Turkish family, which used chiefly the Turkish language and professed the Moslem religion. The religious writings of Islam were, however, in Arabic, and the associated way of life became derived at least as much from Arabian deserts, oases, and flat-roofed towns as from the colder wastes and cruder settlements of Turkish central Asia. A great part of the slowly-developing regulated education in Turkey consisted of Arabian language, literature, philosophy, and theology.

Accordingly, when in the sixteenth century the armies and fleets of Turkey took possession of the lands where Arabs dwelt, in Syria, Palestine, Iraq, the Hejaz, the Yemen, Egypt, and westward as far as the borders of Morocco, the invading leadership was by no means lacking in acquaintance with the ideas and manner of life of the conquered. The custom of pilgrimage to the Moslem Holy Cities, Mecca and Medina, and the usually active trade across and around the Eastern Mediterranean, had also provided contacts and connections.

The Arabs likewise had had extensive previous relations with Turks. The Abbassid Caliphs brought to Baghdad at its founding mercenary and volunteer Turkish soldiers, who became in the ninth century a powerful political force. Sons of rough warriors were educated in Arabian ways

of war and peace, and advanced to high positions in the army and government. In 868 Ibn Tulun became first in a line of quasi-hereditary Turkish governors, who ruled Egypt and frequently Syria for 99 years. After an interval the Mameluke system arose, under which Sultans, usually of Turkish descent, governed according to a slave-state plan of Turkish origin. Turks also played other important roles in Arab lands during the Crusades. Thus the ruling groups and upper classes in Iraq, Syria, and Egypt came to possess no small proportion of Turkish blood. All these relationships account in large part for the permanence of Turkish rule over the Arabs, which lasted in Syria, Palestine, and Egypt almost exactly four hundred years.

Dr. Stripling has done pioneer service, and has made a genuine contribution to historical knowledge, in seeking out from all available sources the facts connected with the Ottoman Turkish conquest of the Arab lands, and in building them together into a connected whole. The task was made particularly difficult by the paucity of materials and their scattered and fragmentary character. With much painstaking, and with careful study and revision, Dr. Stripling has painted the brilliant picture that follows.

The undersigned is pleased to have been Dr. Stripling's adviser in different stages of the work.

ALBERT HOWE LYBYER

PREFACE

THIS STUDY aims to present the results of the author's research in the history of the Turks and Arabs in the first three quarters of the sixteenth century. During that period occurred the conquest of the Arab lands by the Turks and also the decline of the Arabs. Because these two events happened at about the same time, it has been commonly believed that the Turks were responsible for the decline of Arab civilization. That belief, however, is contradicted by careful study of the available sources.

The data used for the period from 1524 to 1574, and especially from 1538 to 1574, are very fragmentary, inevitably so, because of the comparative lack of historical events during those years, as well as because of the scanty materials now available in print or in manuscript in the Near and Middle East and in Europe, but especially in the United States. Although there is undoubtedly much still to be discovered from manuscripts and printed books in Cairo, Jerusalem, Damascus, Istanbul, the cities of North Africa, Venice, Florence, Rome, Genoa, Barcelona, Lisbon, and Marseilles, it is hoped that for the purpose of the present work enough has been gathered from the libraries of America to make a beginning in this field.

The author wishes to express particular thanks to Professor A. H. Lybyer, of the University of Illinois, under whose direction this study was first written as a doctoral dissertation, submitted in 1936. In its revision for publication Professor Lybyer has given invaluable counsel and criticism.

To Professor P. L. Windsor, formerly Director of the University of Illinois Library, and to the libraries of Harvard University and Princeton University, the author feels greatly indebted.

The author also desires to acknowledge his indebtedness to Professor Martin Sprengling, of the University of Chicago, for indispensable preliminary training.

The author is grateful also to his wife for her assistance and kindly encouragement throughout the preparation of the book.

GEORGE W. F. STRIPLING

Minneapolis, Minnesota.

MAPS



MAP I.—THE MIDDLE EAST IN THE EARLY SIXTEENTH CENTURY



MAP 3.—IRAQ AND NEIGHBORING LANDS ABOUT 1570

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debasement of the currency was resorted to.⁴ Some coins fell to seventy per cent of their original value, and eventually a silver coin was worth no more than a copper.⁵ It is evident that the lessened revenue must have created havoc almost everywhere in the Arab lands.

Before considering more in detail both the events which led to economic disaster and the conditions that resulted therefrom, it is advisable to note briefly the location and general condition of the Arabs at this critical period in their history.

The Arabs occupied the region of present-day Iraq, Syria, Palestine, Arabia, Egypt, and the coasts of northern and eastern Africa. However, since the coasts of northern and eastern Africa also contained at least as many Berbers and negroes as Arabs, and since they were not closely related to the other and central lands of the Arabs, there will be no discussion of them in this treatise.

THE MAMELUKE EMPIRE

Most of the Arabs at the beginning of the sixteenth century were located in the Mameluke Empire, ruled by a body of foreigners known as the Mamelukes. The Empire, with Cairo as its capital, consisted of Egypt, Syria, and the Hejaz.

Egypt was bordered on the west by al-Wehet.⁶ On the southeast, it extended almost to Suakin in Abyssinia,⁷ and to Assuan on the Nile, south of which lived the tribe of the Bejas, to whom the governor of Egypt was sometimes forced to pay tribute. On the southwest, Egypt was bordered by the kingdom of Gaoga, which extended west to Borno and east to the confines of another kingdom, called Nubia. The total length of this kingdom of Gaoga was five hundred miles, which was also its width. Its ruler, Homara, was enleagued with the Sultan of the Mameluke Empire.⁸

Syria extended north from Egypt to the borders of Dhu-l-Kadr, a land intervening between the Ottoman Empire and Syria. Maseria⁹ and Kaisarieh belonged to Turkey, and Albistan and Marash belonged to Ala ed-Devlet, the ruler of Dhu-l-Kadr.¹⁰ Bir and Malatia belonged to Syria, but all territory beyond the river Tigris belonged to Persia.¹¹ Tripoli, in Syria, was near the border, apparently hypothetical, between Syria and Palestine.¹² In short, Syria extended from Egypt to Cappado-

⁴Ibn Iyas, *op. cit.*, 60-61.

⁵Although a seraph (sherif) was originally worth a Venetian ducat (Heyd, *Geschichte*, II, 490), 800,000 seraphs were worth only 560,000 ducats in 1516 (Donado Marzelo, Sanuto, *Diarii*, XXIII, 325-326). Ibn Iyas, *op. cit.*, 60-61.

⁶John Leo, *op. cit.*, 802.

⁷Corsali, *Della Navigazione del mar rosso* (1517), 183b.

⁸John Leo, *op. cit.*, 904, 837, 834, 835.

⁹Zeno, *Travels in Persia*, 53.

¹⁰*Travels of a Merchant in Persia*, 196; G. M. Angiolello, *A Short Narrative*, 109.

¹¹*Travels of a Merchant in Persia*, 142-143, 197.

¹²Bertinoro, *Letters*, 250.

cia, and from the Mediterranean to the Euphrates.¹³ Gaza formed the southern boundary of Syria, separating it from Egypt.¹⁴

The northern border of Hejaz was formed by Hejbir, separating it from Egypt and Syria.¹⁵ Hejaz was under the dominion of the Sherif of Mecca, who ruled Medina and the port towns of Yambo and Jidda. In turn the Sherif was bound to the Mameluke Sultan.¹⁶

The Mamelukes were white slaves, either captured in war or bought while children. Most of them came from the Caucasus and Asia Minor, especially Circassia. Originally a bodyguard to the kings of Egypt, they eventually became so strong that in 1250 they seized power and elected their own monarch to the throne. They continued this practice of choosing their emperor from their own number and passing over the last ruler's sons,¹⁷ for it was a rule with them that their children should retain only their deceased parents' property and should forfeit whatever offices they had held.¹⁸ In Egypt the Mamelukes were brought up as soldiers.¹⁹ Varying from ten thousand to sixteen thousand in number,²⁰ they were successful in maintaining their rule over the people of Egypt and Syria because the Mamelukes held together as a single people when danger confronted them, and were intensely loyal to their owner and his descendants even after generations. Their rule was really an oligarchy in that whenever the necessity arose they would assert supremacy over their Sultan and his courtiers.²¹ Their direct rulers were called emirs, or princes, who probably never exceeded twenty-four in number. Indeed, the Sultan was frequently called merely Chief Emir.²² Although they held the Empire with no danger of any serious revolt, their rule was not popular, and their subsequent defeat by the Turks was not regarded by the Arabs as a national misfortune.²³

The Arab dislike of the Mamelukes was based on suspicion and distrust of foreigners whom the Arabs could neither understand nor converse with. The Mamelukes rarely spoke Arabic, preferring to use Circassian. Furthermore, the Mamelukes were clannish; although they themselves were divided into many factions, each with a leader or patron, they would still unite against the common people. They did not intermarry with the natives, except very rarely.²⁴ In spite of the fact that they were very well paid, receiving six ashrafi²⁵ or ducats (fifteen dollars)

¹³Aranda, *Verdadera Informacion*, 1b.

¹⁴Harff, *Pilgerfahrt*, 159.

¹⁵*Description of Pilgrimage to Mecca*, 348.

¹⁶Thénaud, *op. cit.*, 39.

¹⁷Anonymous, *First Voyage of Vasco da Gama*, 79; John Leo, *op. cit.*, 890; Peter Martyr, *Die Babylonische Botschaft*, 241a.

¹⁸Andrea Cambini, *Dell'Origine et Imperio de Turchi*, 137a.

¹⁹Peter Martyr, *op. cit.*, 241a; John Leo, *op. cit.*, 888-890; Varthema, *Travels*, 13.

²⁰Peter Martyr, *Legatio Babylonica*, 81b; Harff, *op. cit.*, 108.

²¹Muir, *The Mameluke or Slave Dynasty*, 216, 218.

²²Creasy, *History of the Ottoman Turks*, 227-228.

²³Coke, *The Arab's Place in the Sun*, 104; Margoliouth, *Cairo, Jerusalem, and Damascus*,

225.

²⁴Muir, *op. cit.*, 217-219.

²⁵"Ashrafi" is the plural of "sherif," which had the same value as the ducat, or, roughly, \$2.50.

per month besides maintenance for themselves and their horses and families, they were very oppressive to the people. Vast wealth was extracted from the subjects of the Empire, and rich fiefs were obtained from the central government. In an effort to make them pay more to the rulers, peasants and townspeople were beaten mercilessly. The populace could neither bear arms nor ride horses or mules in the presence of the Mamelukes. In fact, a traveler of the sixteenth century said that the Arabs lived under the Mamelukes like the lamb under the wolf. The people were governed harshly and were subject to the caprice of any Mameluke who might choose to use the great authority granted him. If a Mameluke killed an Arab in a dispute, there would be no one to censure him. If the Arab were not killed, he could be deprived of a hand and an eye or bastinadoed if he dared strike the Mameluke in self defense. Though killings were probably not very common, an Arab knew that if he failed to get out of the way of a Mameluke quickly enough, or jostled him in passing, or did not greet him obsequiously enough, the Mameluke could beat him as much as he chose. Not even a father or son could venture to help his child or sire when undergoing such punishment. Even women were not safe from their rulers, who could attack them with impunity, even daring to enter their houses at high noon and drive out the victim's family in order to fulfill their desire.²⁶

Not only did the Mamelukes receive high salaries, but also they were exempt from the frequent and heavy customs duties.²⁷ Besides, on the death of a sultan, they expected to receive as an outright gift from one hundred to two hundred ducats each.²⁸ Not satisfied with this, the Mamelukes were very disorderly on such occasions, for they seized the opportunity of the lack of a ruler to extort money from the unprotected populace. Since the average reign of the Egyptian sultans under the Mameluke regime was less than six years,²⁹ the rule of this body of men cost the Empire very much, especially because the Mamelukes, knowing that on the death of their sovereign they would get more pay, were thus constantly tempted by the prospect of a revolt. The plundering on the death of the ruler was particularly bad in the richest cities of the Empire, such as Alexandria and Damascus.³⁰

Since the Mamelukes frequently extorted money from merchants, the latter feared to seem affluent, and so would dress quite poorly to avoid any ostentation which might draw down on them the greed of the gover-

²⁶Muir, *op. cit.*, 219; Varthema, *op. cit.*, 10, 13; Peter Martyr, *Die Babylonische Botschaft*, 242a, 242b; Thénau, *op. cit.*, 56, 57.

²⁷Bertinoro, *Letters*, 242.

²⁸Peter Martyr, *Die Babylonische Botschaft*, 239c, 242b. Since there were about 30,000 Mamelukes, they were paid from 3,000,000 to 6,000,000 ducats in all. Varthema, *op. cit.*, 51. Cf. also Schefer's Introduction to Thénau, p. xi; Marino Sanuto, *Diarii*, I, 994; Muir, *op. cit.*, 190; Harff, *op. cit.*, 87-88; and Paton, *History of the Egyptian Revolution*, I, 60-61.

²⁹Paton, *op. cit.*, 58.

³⁰Thénau, *op. cit.*, 49; Peter Martyr, *Legatio Babylonica*, 80b.

nors. In fact, the merchants sometimes even feared for their lives,³¹ so that some of them packed up and left the great trading city of Alexandria. So dilapidated did the city become that travelers blamed the Mamelukes for its condition. Even Cairo came to have its share of desolate abandoned houses.³²

Although the Mameluke rulers had the town and peasant Arabs subdued, they met great opposition from the Beduins, or wandering Arabs, who traveled in tribes, raising cattle, and moving frequently from one place to another in search of better pasture. Since they were poor, and unmoral, the Beduins were accustomed to take what they wanted if they could not get it peacefully. They were controllable only by military force or by bribery. Between the two largest cities of Egypt, Alexandria and Cairo, it was unsafe to travel by land unless attended by soldiers.³³

In fact, almost the chief duty of the emir kebir, or commander-in-chief of the Mameluke army, was to take especial care against the Beduins. Probably for this purpose, he was authorized to make extraordinary levies on the treasury.³⁴ Even the important trade routes were infested with these marauders. If they became dissatisfied with conditions, they would resort to such methods as cutting the banks of the Nile near Keneh, to prevent the necessary irrigation of the fields farther north.³⁵ Even the pilgrim caravan from Damascus to the Holy Cities³⁶ had to fight off the Beduins. Travelers between Cairo and Palestine, or around Suez, risked their property, if not their lives. Often the Beduins fought with the Sultan himself or with the Mameluke governors of Damascus or Jerusalem.³⁷ In short, it seems that in Egypt order was maintained only in the towns along the Nile, for everywhere else the Beduins were beyond control.

Nevertheless, the Mameluke Empire was perhaps the most cultured land in all the world. Even Venice, the most powerful commercial and cultural center in Italy, owed much of its culture to the Arab world, and most of its prosperity to trade with the Mameluke Empire.³⁸

Cairo was an object of admiration to all European travelers.³⁹ Reputedly there were two hundred merchants there each worth a million ducats (about \$2,500,000) and two thousand more each worth one

³¹Peter Martyr, *Die Babylonische Botschaft*, 239c.

³²Trévisan, *Voyage*, 207.

³³Peter Martyr, *op. cit.*, 240a; Trévisan, *op. cit.*, 177.

³⁴John Leo, *op. cit.*, 891.

³⁵Albuquerque, *Commentaries*, IV, 39.

³⁶Mecca and Medina.

³⁷Thénaud, *op. cit.*, 37; Hans Schürpf, *Pilgerfahrt*, 206; Albuquerque, *op. cit.*, 38, 39; Castro, *Rutter*, 284-285; Nicolo de Nicolai, *Le Navigazioni*, 214; *Description of the Pilgrimage to Mecca*, 348-349; Bertinoro, *op. cit.*, 225; Varthema, *op. cit.*, 16-21.

³⁸Lane-Poole, *Story of Cairo*, 72.

³⁹Cf. Noe, *Viaggio*, 139-141; Trévisan, *op. cit.*, 207; John Leo, *op. cit.*, 870; Giovanni, *Viaggio*, 98a; Greffin Affagart, *Relation de Terre Sainte*, who naively says Cairo's mosques would occupy an area equal to the size of Orleans; Radzivil, *Juengst geschene Hierosolymitanische Reyse*, 147.

hundred thousand ducats (\$250,000). A Jew in Cairo was so rich that although eight hundred thousand ducats (\$2,000,000) were extorted from him on one occasion, he still remained rich.⁴⁰

The Mameluke court was maintained in luxury and pomp. Gold was used not only at the table but in the kitchen and throughout the palace. Poets, singers, musicians, and story-tellers flocked to the court to receive pensions.⁴¹ The grand palace was paved with marble, with gilded and painted roofs and gates of gold and azure, and was amply supplied with servants.⁴²

Cairo was said to extend over thirty-two miles in area, not including all its suburbs. At any rate, it was so large that a courier could not run around the town and suburbs in less than two days.⁴³ One traveler believed it to be three times as large as Paris and to contain five times as many people.⁴⁴ Far ahead of European cities, it was the custom in Cairo for each group of four or five houses to keep a light burning in the street every night. There were but few houses in which mosaics were not to be seen, and there were known to be three hundred homes with sculptures, ivory and ebony incrustations, and floors covered with very costly mosaics.⁴⁵ There was a huge hospital in the town, maintained by a yearly endowment of two hundred thousand ducats (\$500,000). Sick people were taken care of free of charge in that hospital, but if they died their property went to the institution.⁴⁶ Although each street was paved only along the sides, all of them were daily watered to settle the dust.⁴⁷ A rudimentary air-cooling system existed in many houses.⁴⁸

Situated between the Red Sea and the Mediterranean, Cairo drew merchants from India, Ethiopia, Italy, Greece, Nubia, Georgia, Bohemia, Turkey, Tartary, and North Africa, to sell their wares and buy others.⁴⁹ At Bulaq, the port town of Cairo, there could be seen as many as a thousand barks along the wharves. The caravans from Arabia, Syria, and Iraq would stop there with their wares.⁵⁰ But Bulaq was not entirely commercial, for it contained stately mosques, palaces, and colleges.⁵¹

Cairo was not the sole favorite of the Mamelukes. Damascus was also a home of civilization, art, and literature. Unfortunately, it was a provincial town, and so could not equal the imperial capital, but every street had its fountain⁵² with limpid and wholesome water, and had mag-

⁴⁰Thénaud, *op. cit.*, 48.

⁴¹Muir, *op. cit.*, 190.

⁴²John Leo, *op. cit.*, 882, 892-893.

⁴³Noë, *op. cit.*, 139-140.

⁴⁴Thénaud, *op. cit.*, 46-47.

⁴⁵Trévisan, *op. cit.*, 211, 213.

⁴⁶John Leo, *op. cit.*, 873.

⁴⁷Thénaud, *op. cit.*, 47.

⁴⁸Paludanus, in Linschoten, *Voyage*, I, 52.

⁴⁹Bertinoro, *op. cit.*, 224-225; Noë, *op. cit.*, 141.

⁵⁰Trévisan, *op. cit.*, 208; John Leo, *op. cit.*, 876.

⁵¹John Leo, *op. cit.*, 876.

⁵²Guerreiro, *Itinerario da Viagem*, 47.

nificent public buildings, such as bazaars, mosques, baths, and khans.⁵³ Even ice from the Lebanon was sold in the town.⁵⁴

Men of letters were encouraged by the Mamelukes, who made the period of their rule the Saturnian age of Moslem Egyptian art and literature. Some of the greatest authorities in Moslem theology, jurisprudence, criticism, and history were associated as cadis (judges) or professors with the mosques and medressas (schools) of Cairo. The Sultans produced or encouraged the talent of Ibn Khaldun, Nuwairi, Ibn Dukmak, Makrizi, Ibn Hagar, al'Aini, Ibn 'Arabshah, Abu-l-Mahasin, Es-Suyuti, and Ibn Iyas, who were either born in Egypt or, like Abu-l-Fida, spent many years in Cairo. The fifteenth century perhaps was the most prolific period in Egyptian literature, and this activity was more than rivaled in the neighboring province of Syria under the same Sultans.⁵⁵ In short, for five centuries the Mamelukes and their predecessors had been protecting the arts, especially architecture.⁵⁶ And the Sultans were not neglectful of their provincial towns, for in Mecca, Medina, and Jerusalem, and in many other towns, beautiful buildings were erected; charitable, pious, and literary endowments, schools, colleges of medicine, philosophy, art, and science, and homes for orphans were founded.⁵⁷

THE HEJAZ

The Hejaz comprised the region of northwestern Arabia along the Red Sea south to Hejbir to a point just north of Jazan.⁵⁸ The government of this district was in the hands of the Sherif (hereditary prince) of Mecca. Besides this town, the Sherif controlled three others: Medina, to the northeast of Mecca, and the seaports of Jidda and Yambo. All the other territory of the Hejaz probably was then, as it is today, occupied by Beduins only. Even the seacoast between Jidda and Yambo and between Yambo and Tor had few inhabitants.⁵⁹ Although the Sherif was subject to the Mamelukes, little was done by them to interfere in the affairs of the Hejaz, for that was holy ground to the Moslems. Mohammed, the founder of Islam, was born in Mecca, the capital city, which also contained the Kaaba, or holy temple, and he died and was buried in Medina. Every year there came a pilgrimage to these two towns, as a journey to the Holy Cities was enjoined on every good Moslem who could afford it. The Sherif himself was a descendant of the Prophet.⁶⁰

Mecca, the holiest city, was about fifty miles inland from the port

⁵³Sionita, *Arabia*, 19.

⁵⁴Aranda, *op. cit.*, 22a.

⁵⁵Lane-Poole, *op. cit.*, 286.

⁵⁶Devonshire, *L'Égypte Musulmane*, 4; Lane-Poole, *op. cit.*, 281.

⁵⁷Muir, *op. cit.*, 220.

⁵⁸Albuquerque, *Commentaries*, IV, 34.

⁵⁹Albuquerque, *op. cit.*, IV, 34, 35, 36; Thénau, *op. cit.*, 30.

⁶⁰Thénau, *op. cit.*, 39.

of Jidda,⁶¹ and contained about 60,000 people.⁶² In circuit the town was five miles, with no walls or fortifications except the protection of the mountains about it. The houses were handsome and commodious, and "built like those in Italy."⁶³ To Mecca and Medina came much merchandise, most of it perhaps during the pilgrimage, for the caravans would then be better protected by soldiers⁶⁴ from the marauding Beduins. Since the region produced no food, and even water had to be brought from a considerable distance, the two cities were dependent upon the pilgrimage and trading, together with the manufacture of their famous velvets. In Mecca were to be seen the larger part of the wares sent from India to Alexandria and thence to Europe. Cotton and silk stuffs, jewels, spices of every kind, wax, and perfumes in abundance were all available in this pilgrim town.⁶⁵ No doubt the pilgrims coming from Ethiopia, India, the Pacific coast, Persia, and Syria brought along what they could in order to defray the expenses of the journey, but there were many merchants in the caravans, too.⁶⁶

Jidda, being a principal port, was more important than Mecca, but its environs were just as unfruitful and suffered the same scarcity of drinking water. In the sixteenth century, Jidda was a very attractive town, with beautiful houses making up a sort of wall around it, and with a large mosque in the center.⁶⁷ In spite of its wretched port, full of rocks and sand, so that ships had to anchor at least two miles away,⁶⁸ the town was overflowing with the wealth of the Indies and of the Levant and Europe.⁶⁹

Medina had no more importance than that of a caravan stop and the burial place of Mohammed. Although the houses there were fair enough, the town was quite small.⁷⁰

JEZAN

Of the district south of the Hejaz, called Jazan, little is known except that it was bounded on the south by a line somewhat to the north of the island of Kamaran. Jazan seems to have been largely a city kingdom. This little port at times contained as many as forty-five vessels from various countries.⁷¹

THE YEMEN

The island of Kamaran, the northernmost extent of the Yemen, was little populated, with perhaps no more than a thousand people. Only eight miles from the mainland, Kamaran drew most of its revenue from

⁶¹Barbarigo, *Relazione*, 5.

⁶²6,000 hearths; Varthema, *op. cit.*, 35; Thénau, *op. cit.*, 38.

⁶³*Sommario di Tutti li Regni*, 324b.

⁶⁴Cf. Niebuhr, *Description de l'Arabie*, 309.

⁶⁵Varthema, *op. cit.*, 35-38.

⁶⁶*Ibid.*; Sernigi, *op. cit.*, 125.

⁶⁷Thénau, *op. cit.*, 38.

⁶⁸*Description of the Pilgrimage to Mecca*, 360.

⁶⁹Thénau, *op. cit.*, 38.

⁷⁰*Description of the Pilgrimage to Mecca*, 361.

⁷¹Varthema, *op. cit.*, 55-56.

coral fishing and transporting wares in the inhabitants' light boats.⁷² Aden, however, the administrative capital of the kingdom of the Yemen, was quite different. Large and populous, with a good harbor and well fortified, this city contained about fifty thousand to sixty thousand people. Aden was the rendezvous for many ships bound for India from the Red Sea,⁷³ and it enjoyed a large trade with the coast of eastern Africa and Hormuz. To the former were brought clothes, and in return the merchants carried back to Aden gold, horses, and ivory. Aden exchanged its copper, quicksilver, vermilion, coral, wool and silk cloths, opium, raisins, rose water, stuffs from Mecca, ingot gold, thread, and camlets with the Indian merchants for beads, spices, drugs, rice, iron, sugar, pepper, ginger, lacquer, musk, cottons, spun and unspun, coconuts, benzoin, sandalwood, aloes, and rhubarb. The cotton ships from India were so large that they amazed the Europeans.⁷⁴ Twenty-five was the usual number of vessels in the annual fleet carrying madder to dye clothes in Hormuz.⁷⁵ But not only Aden was noted for its commerce; on a smaller scale the cities of Taiz and Zebid were famous for their wealth from the same sources.⁷⁶

Aden was reputed to be the finest city in all the peninsula of Arabia, though the kingdom whose capital it was also ruled other populous towns in the most fertile part of Arabia, including Zebid, Taiz, Raytal, al-Makranah, Lahej, Damt, Yerim, and Dhamar.⁷⁷ The situation in the Yemen was not secure, however, and the king was forced to reside in Sanaa,⁷⁸ a city of about 40,000 population,⁷⁹ with handsome houses, fountains, vines, and gardens, which reminded the travelers of Italy. Sanaa was a healthful city because of its altitude.

FARTAC

Extending east from the dominion of the Sultan of the Yemen was a kingdom of Arabs, beginning about twenty-five leagues from Aden, near the sea. This kingdom, called Fartac by the Portuguese, probably after Ras Fartac, a headland jutting out into the Gulf of Aden, possessed few towns on the coast: Shehir, Xebech, Dhofar, and Fartac. The inhabitants of the kingdom were mostly fighting men, and their king was subject to the King of the Yemen.⁸⁰ The most important city of Fartac was Shehir. Quite large, at least for its location on the Gulf, it had a great trade in wares from Cambay, Chaul, Dabul, Baticala, and Malabar.

⁷²Varthema, *op. cit.*, 57; *Viaggio per un Comito Venetiano*, 275a-275b.

⁷³Barbarigo, *op. cit.*, 4; Varthema, *op. cit.*, 59-60.

⁷⁴Barbosa, *Description*, 27-28.

⁷⁵Varthema, *op. cit.*, 81, 82, 83, 85.

⁷⁶*Sommario di Tutti li Regni*, 325a-325b.

⁷⁷Varthema, *op. cit.*, 83.

⁷⁸*Sommario di Tutti li Regni*, 325b.

⁷⁹4,000 hearths (Varthema, *op. cit.*, 80).

⁸⁰Barbosa, *op. cit.*, 28-29.

Coarse and fine cotton stuffs, jewels, rice, sugar, spices, and coconuts were exchanged at Shehir for horses and wormwood. Dhofar, its nearest rival, also maintained a considerable trade with the Indian merchants, especially in cottons and rice. The kingdom of Fartac extended as far as the cape called Ras el-Hadd, where a fortress of the kingdom of Hormuz, called Kor, delimited the two kingdoms' boundaries.⁸¹ Socotra, an island lying to the south of Ras Fartac, was also under the dominion of the king of Fartac. The island had been conquered about 1482.⁸² The interior regions of Arabia were occupied thinly by Beduins who are of no historical importance, so far as is known at the present time.⁸³

THE KINGDOM OF HORMUZ

In the Persian Gulf was the Kingdom of Hormuz. The rule of this city and island kingdom extended north of Ras el-Hadd to beyond Cape Musandam, towards the head of the Persian Gulf, in both Arabia and Persia. On an island that is now barren, an Arab conqueror in the eleventh century founded a town which in the course of centuries became the rich, handsome, and large city of Hormuz.⁸⁴ The island did not have even water and did not produce any food, and all its supplies had to come from the mainland of Persia, which was eleven or twelve miles distant, or from Arabia. Nevertheless, its location at the entrance of the Gulf of Persia and between India and the Red Sea was so favorable that this island, which had no resources but sulphur and salt,⁸⁵ became so important that as many as three hundred ships were there at one time, from many foreign lands. Usually four hundred foreign merchants resided there, trading principally in silks, pearls, jewels, and spices.⁸⁶ The city of Hormuz came to be about as large as Aden⁸⁷ because of its far-flung trade with Arabia, Cambay, Chaul, Dabul, Bengal,⁸⁸ Persia, Aden, Cairo, Alexandria, China, Cathay, Iraq,⁸⁹ and Cochin.⁹⁰

Spices, drugs, precious stones, and other goods, such as pepper, ginger, cinnamon, cloves, mace, nutmeg, long pepper, aloes, sandalwood, brazilwood, balsam, tamarinds, Indian saffron, beeswax, iron, sugar, rice, coconuts, rubies, sapphires, amethysts, topazes, chrysolites, hyacinths, porcelain, and benzoin, were all here from the Orient, as were also the wares sent from Arabia. The wealth derived from this trade made Hormuz a place of beauty and of wonder to the European travelers.⁹¹

⁸¹*Ibid.*, 30-32.

⁸²John Pory, *Discourse on the Religions of Africa*, 1052.

⁸³Barbosa, *op. cit.*, 30-31.

⁸⁴Raynal, *India*, I, 105.

⁸⁵Varthema, *op. cit.*, 94-95; Barbosa, *op. cit.*, 41, 43-45.

⁸⁶Varthema, *op. cit.*, 98, 99.

⁸⁷Corsali, *op. cit.*, 187b.

⁸⁸P. Alvares, *Navigations*, 123b.

⁸⁹Barbosa, *op. cit.*, 42.

⁹⁰Caesar Fredericke, *Voyage*, 394.

⁹¹Barbosa, *op. cit.*, 41, 42.

The government of the whole kingdom was carried on at Hormuz by a council of the wealthy merchants who left the king little power.⁹²

Maskat was the most important possession of the kingdom, for it was the principal entrepôt of the Gulf, and exported horses, wheat, maize, barley, dates, and dried and salted fish. Other possessions of Hormuz were: Kalhat, Kiryat, Sohar, Daxnia, Rosach, Nahel, Daba, Madeha, Khorfakan, Dadena, Ras al-Himan, Amulgowein, Kalba, Queximi, and the island of Bahrain.⁹³ The holding of Bahrain was immensely valuable, because of its pearls, for which it is still famous today. The pearls from Bahrain were sent to India, Arabia, Persia, and Turkey.⁹⁴ But the whole Gulf produced pearls, too, from Hormuz to Basra, including Katif, Julfar, and many small islands.⁹⁵

THE BENJABAR

In the hinterland of Khorfakan, Sohar, and Maskat, there existed a government by a family called, by sixteenth-century writers, the Benjabar. The three brothers of this name controlled the desert land extending west to the Yemen.⁹⁶

IRAQ

Present-day Iraq was divided into Iraq, centering about Baghdad and extending down to Basra, and Jezîreh, or Mesopotamia, to the northwest of Iraq. Ismail, the Shah of Persia, controlled Iraq, which he had seized in the early years of the sixteenth century;⁹⁷ and the Kurds, a race similar in language and origin to the Turks, ruled Jezireh, with Diyarbekir, to the northwest, and present-day Kurdistan.⁹⁸ Since Iraq does not come into this story until the second quarter of the sixteenth century, a description of the land will be left till a later chapter.

THE TRADE OF THE ARABS

For many centuries trade had been going on between the Orient and the West, overland and by water, but some time before the opening of the sixteenth century the overland routes had been reduced to little importance,⁹⁹ and most of the traders went by sea from India along the coast of Arabia to Egypt and Syria, where their goods were exchanged for the products of the Middle East and of Europe.¹⁰⁰ The center of most of the trade in India was Calicut, on the west coast of the peninsula.¹⁰¹

⁹²*Ibid.*, 45.

⁹³Barbosa, *op. cit.*, 32-35.

⁹⁴Corsali, *op. cit.*, 188b.

⁹⁵Linschoten, *Voyage*, LXXI, 138.

⁹⁶Albuquerque, *op. cit.*, IV, 84, 100.

⁹⁷Hagi Halfe, *Chronologia*, 139.

⁹⁸Chêrêfouddine, *Chêrêf-namêh*, I, pt. 2, 152-153.

⁹⁹Lybyer, *op. cit.*, 579, 581, 593.

¹⁰⁰*cf.* Albuquerque, *op. cit.*, IV, 167; *Early Voyages to Russia*, LXXII, 87.

¹⁰¹Vasco da Gama, *Voyages*, Hakluyt, XLII, 155; P. Alvares, *op. cit.*, 126a; *Die Newwelt*, 48b; Barbosa, *Account*, XLIX, 76.

Diu also was a very important trading city.¹⁰² Many other towns in India, too, were engaged in this exchange of goods, all of which contributed to the prosperity of the Arabs.¹⁰³ Indeed, frequently the galleys that went to Alexandria and Beirut from Venice returned with two hundred thousand ducats¹⁰⁴ worth of cargo each, and since from four to nine ships left Syrian and Egyptian ports every year, a goodly sum was involved.¹⁰⁵ At one Indian port as many as fifty ships were loaded annually with cotton and silk stuffs for the Indian, Levantine, and Chinese trade.¹⁰⁶ Every monsoon ten to fifteen ships would leave Calicut for the Red Sea.¹⁰⁷ Since some small fleets of Indian ships attained the value of two hundred thousand ducats, the total value of the trade may be estimated at a very high figure.¹⁰⁸ The profits were very high, too, for the smallest figure of the merchants' profits is given at one hundred per cent.¹⁰⁹ Many were not satisfied with such returns¹¹⁰ and managed to sell their wares at a difference of two thousand to ten thousand per cent.¹¹¹

The culture and high civilization which prevailed among the Arabs in the years when they were prosperous would indicate that their decline after the commencement of the sixteenth century had for its cause the loss of the lucrative trade with the Far East and Europe.¹¹² At any rate, the period of their holding the trade routes, both land and water, from India to Europe, coincided with the period of their greatness in the arts and in literature. From the seventh century to the end of the fifteenth was definitely the period of their genius and civilization, and it was in the seventh century that they conquered Egypt and Persia and thus gained control of the direct communication between Europe and India. Thenceforth all Indian wares which reached the West passed through Mohammedan hands.¹¹³ Although the trade with these sections of the world never completely died out, still, shortly after the opening of the sixteenth century, it was cut so much that the vast profits of the middleman were no longer to belong to the Arab. The cause of this lessening in revenue, both governmental and individual, was the advent of the Portuguese.

Arriving in India in 1498, by the route of the Cape of Good Hope, the Portuguese succeeded within a decade in taking almost all the trade that

¹⁰²Linschoten, I, 58; Barbosa, *op. cit.*, XXXV, 80; Varthema, *op. cit.*, 92.

¹⁰³Vasco da Gama, *op. cit.*, XLII, 155; Barbosa, *op. cit.*, XLIX, 77; P. Alvares, *op. cit.*, 126a; Varthema, *op. cit.*, 151; Barbosa, *op. cit.*, 139-142.

¹⁰⁴Tschudi, *Reyss*, 48; Peter Martyr, *Legatio Babylonica*, 77b.

¹⁰⁵Peter Martyr, *op. cit.*, 79b; Harff, *Pilgerfahrt*, 57; Peter Martyr, *Die Babylonische Botschaft*, 236a; Trévisan, *op. cit.*, 158.

¹⁰⁶Varthema, *op. cit.*, 212.

¹⁰⁷Barbosa, *op. cit.*, XLIX, 77.

¹⁰⁸*Letter from Certain Merchants and Bankers of Spain*, in Kerr, II, 514.

¹⁰⁹Thénaud, *op. cit.*, 27.

¹¹⁰Corsali, *op. cit.*, 182a.

¹¹¹*A Journal of the First Voyage of Vasco da Gama*, 99.

¹¹²Cf. Niebuhr, *op. cit.*, 247.

¹¹³Cf. Smith, *Oxford History of India*, 331.

had previously been controlled by the Arabs. The explanation for this is simple enough, as the all-water route around the Cape saved the Portuguese much of the expense which the routes through Arab lands entailed. The route through the Red Sea which the Arabs had to use was very complicated. The point of unloading for ships coming from India depended on their size and upon the winds. If the vessels were small¹¹⁴ and had started early enough from India to utilize the monsoons, or trade winds,¹¹⁵ they could reach Suez or Tor on the Sinaitic peninsula, but in that event their small size increased the freight charges, because they carried less bulk than the larger ships. If they were large and had started in good time, they unloaded at Jidda. If the large ships missed the monsoons, they were forced to unload at Aden or even Shehir, on the Indian Ocean. In other words, apparently only small boats could go beyond Jidda to the Isthmus of Suez, but this route, although convenient, increased the cost of transport. From Jidda the wares were taken either by caravan to Mecca and thence to Syria and Egypt, or by sea to the Isthmus of Suez, from which latter place they were taken in caravans to Bulaq and then down the Nile to Alexandria. From Aden the wares would be taken overland to Jidda and Mecca and thence along the routes mentioned above.¹¹⁶

Thus the Arab merchants were regularly compelled to load and unload several times. Moreover, on any route the Beduins might be met, and they were to be placated only by money or wares, or both. In addition to this extortion, there were customs duties at Aden, Mecca, Jidda, Suez (or Tor), Bulaq, Cairo, and Alexandria; in short, at every port of entry for the wares.¹¹⁷ It should be remembered that the duties were exacted at all these points for all goods passing through, even if they were consigned to a point outside the country.¹¹⁸ These customs duties amounted in each case to at least ten per cent of the value of the merchandise, not of the original cost.¹¹⁹ Although it was possible to lessen these charges by bribing the agents of the customs offices, still it is not likely that the tariff ever fell below five per cent.¹²⁰ Probably from thirty to fifty per cent was added to the cost of the wares at the first point of debarkation,¹²¹ because the shipper naturally had to be recompensed, as did the stevedores, consignor, and consignees, or if the goods changed

¹¹⁴Barbosa, *op. cit.*, XXXV, 23.

¹¹⁵*Die Newwelt*, 26d; Barbosa, *op. cit.*, XLIX, 77; Linschoten, I, 54.

¹¹⁶*First Voyage of Vasco da Gama*, 77-78; Albuquerque, *op. cit.*, II, 7; Barbosa, *op. cit.*, XXXV, 23; Heyd, *op. cit.*, II, 447-448, 497; *Itinera Mundi*, 212-213.

¹¹⁷*First Voyage*, 78; Varthema, *op. cit.*, 60; Albuquerque, *op. cit.*, IV, 34-35; John Leo, *op. cit.*, 876; Harff, *op. cit.*, 77.

¹¹⁸Heyd, *op. cit.*, II, 448-450, Bertinoro, *op. cit.*, 223; John Leo, *op. cit.*, 862-863; Harff, *op. cit.*, 77; anonymous, *First Voyage of Vasco da Gama*, 78.

¹¹⁹Heyd, *op. cit.*, II, 451.

¹²⁰Because the average was 10%; sometimes 16-18% was charged (*ibid.*).

¹²¹Heyd gives estimates of 100% to 300% (*ibid.*).

hands both parties had to make a profit. Indeed, it is quite probable that the goods were commonly taken by individual merchants to Aden, Jidda, or Tor, only, and sold there.¹²² Consequently, the profits of the middlemen must have been frequent on each shipment of wares and therefore enormous. In fact, the difference between the cost of the articles in India and their prices in Alexandria amounted to more than two thousand per cent.¹²³

The Portuguese, being in control of the easy Cape route to India; as contrasted with the difficult and expensive trade routes of the Levant, and having factories at or near the centers of origin of the Indian wares, needed only to ship their goods by sea, and could therefore sell at prices much lower than those of the Arab merchants. This sea route had its dangers, of course, and involved the payment of customs at Lisbon, but it was not nearly so complicated and expensive as the routes used by the Arabs. Furthermore, the Portuguese had less expense in connection with the transport of their goods to the world markets, because Lisbon was readily accessible by cheap sea transportation to western Europe; whereas Venice, Marseilles, Barcelona, and Genoa were cut off from the great markets of western, northern, and central Europe by barriers of mountains or long stretches of land, with consequent heavy tariffs and the expenses of hauling overland. Lisbon, moreover, strengthened its advantage by establishing an office in Antwerp in the early sixteenth century,¹²⁴ whereby it could supply western and northern Europe more cheaply than the Arab outlets could, and could therefore offer the merchants of India much higher prices than could the Arabs. Thus the Portuguese were enabled to secure most of the products.

The rivalry of the Arabs and the Portuguese for the trade of the Indies was not the only cause for unfriendly relations between the two. The fact that their religions were different added to their mutual hatred. The Portuguese had first learned to hate the Moslems when the latter ruled them, and it was not long since the invaders had been expelled. Furthermore, the fall of Constantinople in 1453, and the expulsion of the Moslems from Spain at the close of the fifteenth century, served to increase the hatred between the Christians and the Moslems. An additional grievance of the Moslems was that wars were being waged against them in North Africa by both Spain and Portugal.

As early as 1500 the Portuguese had come to blows with some Moslem merchants at Calicut, and had burned ten Egyptian ships. Although no declaration of war resulted, this event augmented the feeling of hostility between the Arabs and the Portuguese. The next year the King of Portu-

¹²²Barbosa, *op. cit.*, XLIX, 77. Cf. *A Journal of the First Voyage of Vasco da Gama*, 78.

¹²³Brazilwood worth 3 cruzados the bahar at Tanasserim cost 60 at Cairo (*First Voyage*, 99); prices rose 6000% to 100,000% when the wares reached the Levant (Priuli, *Diarii*, 160).

¹²⁴Ragg, *Crises in Venetian History*, 139; cf. *Itinera Mundi*, 213-214.

gal decided to prevent the Arabs from getting spices,¹²⁵ and in 1502 a long war began for the control of the trade from India—a war destined to last until after 1569.¹²⁶ The competition of the Portuguese was speedily effective, for by 1503 the Arabs felt that their commerce was lessening, and during the next year, 1504, only enough spices arrived in the Mameluke Empire for domestic consumption.¹²⁷

It is not to be assumed, however, that the Arabs willingly and peacefully gave up the trade which had meant so much to their existence, and at this point it will be worth while to note rather briefly some of the principal events in their war with the Portuguese.

THE PORTUGUESE-ARAB WAR

As already indicated, the Portuguese were able to pay the Indian merchants higher prices for their goods than the Arabs, because of the advantages which the Portuguese enjoyed in control of the all-water route from India to Europe, and it is likely that the Arabs would have had no effective way of combatting their new rivals from the west if competition had been limited to the realm of trade. But the Portuguese, believing it would be easy to seize the whole trade and thus to become fabulously rich, promptly assumed the offensive in war. Since India was weak and disorganized, the Portuguese had little trouble in establishing factories there at key points¹²⁸ and in seeing to it that merchants leaving any Indian port were required to carry licenses. The penalty for failing to carry such licenses was death or perpetual servitude. These licenses were granted neither to Moslems nor to ships bound for the Red Sea.¹²⁹ Smugglers, however, could reach Arab ports,¹³⁰ and it was to prevent smuggling that the Portuguese, in 1502, performed their first act of war against the Arabs. In that year the newcomers attempted to bar any ship from reaching the Red Sea.¹³¹ The ships sent out in 1502 seized the Arab-controlled port of Kilwa on the east coast of Africa, and in India the Portuguese formed an alliance with the rulers of Cananor and Cochin against the King of Calicut, the most important port for Moslems in India. In the Portuguese attack on Calicut in 1502 many of the Moslems' ships were destroyed. The next year, 1503, a new Portuguese fleet was sent out to block the entrance of the Red Sea to all Moslem ships.¹³²

These first acts of war against the Arabs and the Mameluke Empire

¹²⁵Peter Pasquali, *Letter from the Venetian Envoy*, in Kerr, II, 509.

¹²⁶Zain ud-Din, *Tohfut-ul-Mojahideen*, 79-81; Albuquerque, *op. cit.*, I, 171.

¹²⁷Prüli, *op. cit.*, 174.

¹²⁸Dames, *The Portuguese and Turks*, in *Journal of the Royal Asiatic Society*, Jan., 1921, pt. I, p. 2. Cf. Pasquali, *Letter*, 519-520.

¹²⁹Corsali, *op. cit.*, 182a.

¹³⁰Barbosa, *op. cit.*, XXXV, 80.

¹³¹T. Lopez, *Navigazione Verso le Indie Orientali*, 143b.

¹³²Sir George Birdwood, *Report on the Old Records of the India Office*, 167. Even earlier than 1502 the Portuguese had burned some Egyptian ships at Calicut.

met no opposition, because it was then impossible for the Arabs to combat the Portuguese.

The Mamelukes were badly handicapped in their struggle with the Portuguese, for unlike the latter they were essentially soldiers, especially cavalymen, and not sailors. Furthermore, the Empire had no suitable wood for building ships, and the existing vessels belonging to Moslem merchants were not fit for sea fights with the great sailors and navy of the Portuguese. Ships made in the East were practically sewed together with ropes passed through holes drilled in the planking. All the materials, as well as workmen and engineers, had to be imported into Egypt, and all had to be laboriously carried across on camels' backs from Cairo to the barren port of Suez. Shipyards had to be constructed here with wood also brought from a great distance, and the immense task of provisioning the workmen had to be taken care of. There was not an item that was at hand—sails had to be made, iron procured and cast into cannons, and rigging had to be prepared and fitted. The fleet had to be different from that which the Egyptians had been using in the Mediterranean Sea and in the Red Sea, for the ships sailing those seas could hardly navigate the Indian Ocean. In addition, there was the task of building vessels large and strong enough to fight the Portuguese, and yet of light enough draft to sail in the difficult Red Sea. Therefore, it is not surprising that Kansuh, the Sultan of the Mamelukes, did not try to start construction of a fleet until all efforts at conciliation had failed, and that the preparation of a fleet, when once undertaken, took several years.

No very important events took place until 1505, but in that year the Portuguese came up to Jidda,¹³³ the port of Mecca, which was the object of Moslem veneration. As the Portuguese thus threatened the holiest spot of Islam, it was very clearly revealed that the Moslems were in great danger. It was an abrupt turning of the tables of 1453 when the Christian world was humiliated at the fall of Constantinople. Aroused by this threat to his prestige as the protector of Islam, Kansuh determined to build a fleet and fight the invaders. In 1506 the fleet was on the stocks, nineteen boats with artillery, but the construction took some time, for the reasons previously explained. While the fleet was still unfinished, the Portuguese took Socotra, an island in the Gulf of Aden near the mouth of the Red Sea, which controlled to some extent the entrance of ships to the straits of Bab el-Mandeb, the southern extremity of the Red Sea. The Portuguese chose to attack this island because it was not well protected, and because they did not feel that they could risk an attack on Hormuz or on the very important town of Aden. But they undertook to make Socotra a bar to the trading ships of the Moslems, by building a

¹³³Priuli, *op. cit.*, 187-188.

fort there and by maintaining some sort of fleet to stop passing merchant vessels. That they were successful in keeping off the Arab ships was revealed in the same year, 1506, when only Syria had spices to export, and very few of them at that.¹³⁴ These had probably come up the Persian Gulf, the entrance to which, Hormuz, the Portuguese had not yet seized.

Thus in 1506, seven years after the first cargo of spices had arrived in Lisbon from India, the decline of the Levant was well started. The Portuguese attempt to establish a monopoly¹³⁵ of the trade was hurting the prosperity of the Levant and the Middle East.¹³⁶ By bottling up the neck of the Red Sea, and by excluding Moslem traders from India and refusing to allow any merchandise to leave India except for Portuguese possessions, the Portuguese were stopping thousands of Arabs from earning their livelihood. Without doubt, the real cause of the recession of the culture and prosperity of the Arabs is to be found in the activities of the Portuguese, and not in the conquest by the Turks of the Mameluke Empire over ten years later. But the Moslem lands were not the only ones to suffer from the loss of trade. Venice and India, together with much of Italy, also suffered, for their prosperity was linked up with that of the Near and Middle East. It is well known that the decline of the eastern half of the Mediterranean basin dates from the early sixteenth century. Of course, events in Europe had much to do with the decline of Italy, but it seems probable that the major factor was the collapse of the trade route through the Mameluke Empire to the Indies.¹³⁷

Affairs, although already bad for the Arabs, became steadily worse, and the year 1507 is perhaps the blackest in Arab history. No Indian wares arrived at all,¹³⁸ and, what was far worse, Albuquerque, the Admiral of the Portuguese Indian fleet, called "The Great Hero" by his Lusitanian biographers, without declaring war on the kingdom of Hormuz, and without any "just" cause for war beyond his desire to sweep the seas for the benefit of the Portuguese monopoly, decided to take possession of the kingdom by first subjugating the Arab towns which belonged to it. Taken completely by surprise, the Arabs were defeated, for with their few cannon they could not fight off the experienced Portuguese warriors. Kiryat, Maskat, and Khorfakan, important towns in the kingdom, were stormed and burned. Not satisfied with these victories, Albuquerque had the men, women, and children mutilated, and thus took away from the Turks the reputation for the most appalling brutality. Continuing his raids, Albuquerque accepted the offer of Sohar

¹³⁴Priuli, *op. cit.*, 102, 105, 107; Albuquerque, *op. cit.*, I, 40-54; Fernand Mendez Pinto, *Les Voyages*, 37.

¹³⁵Paton, *op. cit.*, I, 65-66.

¹³⁶Varthema, *op. cit.*, 50.

¹³⁷Corsali, *op. cit.*, 182a. Cf. Lybyer, *The Ottoman Turks and the Routes of Oriental Trade*.

¹³⁸Priuli, *op. cit.*, 201-206.

to pay tribute, took Hormuz, and practically closed the Persian Gulf to Indian ships bound for Basra, the port of Baghdad.¹³⁹

Ships could bring wares to India from the Mameluke Empire only by running the gauntlet of the Portuguese fleets off Socotra and Hormuz, and consequently all the hopes of the Empire were pinned on the fleet which reached India in 1508. Although this fleet won the first battle in which it engaged, no ships from India succeeded in getting through, because the Egyptians had arrived too late in the year.¹⁴⁰ During the following year, 1509, a few spices passed through to Cairo, but these must have gone up the Persian Gulf and must have been landed at Basra, for Albuquerque had hurried to the Red Sea on the news that the Mameluke ships had won a victory, and so relaxed his blockade of Indian ports. But whatever elation the Egyptians felt at the victory of their fleet was soon cut short by the news that Kalhat had been punished for mutinying against the Portuguese. The city had been burned to the ground and its inhabitants' ears and noses cut off.¹⁴¹ Albuquerque, the perpetrator of the deed, left the site of the town with one hundred thousand ashrafi worth of spoils. But the greatest blow the people and government of the Mameluke Empire, if not of Venice, had to bear, was that the vast naval effort of the Mamelukes, the first of any importance in their history, was ruined by the Portuguese early in 1509.¹⁴² The greater numbers of the Portuguese, and their experience, both in sailing and in sea-fighting, had been too much for the newly-trained cannoneers of the Mamelukes.¹⁴³

In spite of the crash of his hopes, loss of the customs duties, and a revolt in Syria by the governors of Damascus and Aleppo, Kansuh realized that the only way for the Empire to reestablish its power was to crush the Portuguese, and hence he resolved to build a new fleet. Kansuh would have been much more troubled if he had learned that Albuquerque had sent an ambassador in this year of 1509 to Ismail, Shah of Persia, with the promise of supporting the Persians if they would attack the Mamelukes.¹⁴⁴ To get material for the new fleet he planned, Kansuh was forced to apply to the old enemy of the Mamelukes, Sultan Bayezid of Turkey. Bayezid furnished him with timber for thirty vessels, with three hundred iron guns, one hundred fifty masts, three thousand oars, and other apparatus, such as sails. The Egyptian vessels, sent to the Gulf of Ayas to load the promised timber, were attacked by the Knights of St. John,¹⁴⁵ who held the island of Rhodes, were captured,

¹³⁹Albuquerque, *op. cit.*, II, 67; I, 68-69, where it is stated that at Kiryat 25 guns were captured and (I, 73-75) at Maskat 30, large and small; I, 70, 71, 73-82, 87-91, 93-98, and 111-143. (Although the name of Albuquerque is spelled with an "o" in his *Commentaries*, the modern spelling is used in the text of the present study.)

¹⁴⁰*Cf.* Priuli, *op. cit.*, 173.

¹⁴¹Albuquerque, *op. cit.*, II, 49; I, 200-201, 204, 213, 215, 221.

¹⁴²Albuquerque, *op. cit.*, I, 230; II, 82.

¹⁴³Priuli, *op. cit.*, 207.

¹⁴⁴Albuquerque, *op. cit.*, II, 228, 107-115.

¹⁴⁵A semi-monastic, semi-military association which originated during the crusades.

and were taken to Rhodes.¹⁴⁶ Again a delay ensued before the Mamelukes could make arrangements for procuring new material. But the strain of maintaining a fleet to prevent the Arabs from getting spices from India was telling on the Portuguese also. To relieve the pressure on the King's purse, Albuquerque took Malacca, which was the entrepôt of spices for the Arabs.¹⁴⁷ This measure was resorted to because it was much cheaper to cut off the source of spices than to stop them when they were already in transit. Furthermore, the slight expense of keeping a fort and a flotilla off India alone, made it possible for the Portuguese to control the most valuable parts of India with little difficulty. It was the intention of Albuquerque, as viceroy of India and guardian of Portugal's interests, to seize Aden, too, and Hormuz, and thus completely to prevent any Indian wares from reaching the Mameluke Empire and from passing on to Europe to compete with the Portuguese goods. A squadron off Aden could control the Red Sea, just as one off Hormuz could control the Persian Gulf. The land routes to the Mameluke Empire need not have troubled the Portuguese, for they were quite too costly to offer any serious competition.

Even Venice, the best customer of the Mameluke Empire and formerly the chief distributor of Indian wares to Europe, thought it useless to help the Mamelukes against the Portuguese, and instead cast about for an all-land route from Persia to Turkey. With this intention, the Republic dispatched ambassadors to seek a way through Persia. The measures, however, fell through when the Italian envoys were imprisoned. The sole result of the undertaking apparently was to show the Mamelukes that they were weak indeed when their natural and old allies deserted them.¹⁴⁸

The year 1511 saw a change in the method of shipping Indian goods to Egypt. Albuquerque's patrol of the Red Sea had been abandoned in the early fall of 1510 for an attack on Malacca. Taking advantage of his absence, the Moslem traders sailed from India for the Red Sea, in the winter of 1510-1511, but almost all their ships were wrecked because of storms. The loss was so severe that the merchants decided to employ smaller boats and thus lessen the chances of total ruin. No doubt the employment of smaller craft aided in running the blockade, for the lighter vessels were able to coast into waters that the warships of the Portuguese could not navigate, but the dangers to which the blockade runners were exposed, and the relatively small cargoes which they were able to carry in proportion to the numbers of their crews, made this method quite expensive. Enheartened, however, by the return of a bit of the old

¹⁴⁶Priuli, *op. cit.*, 210-213, 216-218.

¹⁴⁷Albuquerque, *op. cit.*, IV, 241; III, 117-118.

¹⁴⁸Priuli, *op. cit.*, 224-255.

prosperity arising from Albuquerque's presence in Malacca, Kansuh decided to take Aden from its ruler and thus prevent the Portuguese from entering the Red Sea. But the construction of the Mameluke fleet had been held up by the Rhodians' seizure of materials in the Gulf of Ayas, and consequently the project had to be deferred.¹⁴⁹

In the meantime, Albuquerque was making preparations to cut off completely the trade in spices handled by the Mamelukes,¹⁵⁰ and for that purpose sent a fleet to blockade Calicut, and an ambassador to Diu to demand that the king allow no Egyptians to be received and that he allow the merchants of his town to send their wares only to Goa, which was under the Portuguese. Aden, the key to most of the trade in the Red Sea, he planned to seize in 1513. The Mameluke Empire had another enemy raised against it when Abyssinia offered Albuquerque aid against Mecca and the Egyptians, for Abyssinia was a Christian kingdom, long at enmity with the Moslems. Because of continued delays in building the Mameluke fleet at Suez, Albuquerque was able to start out before Kansuh's fleet was finished.¹⁵¹

The attempt of the Portuguese to seize Aden failed, because of the wonderfully strong situation and fortifications of the city, and because of the courage of its defenders. Albuquerque's excuse, however, was that his scaling ladders broke. To sate his revenge on the fortunate city, the Portuguese admiral cut off the hands, noses, and ears of whatever captives he took from the ships he thenceforth encountered in the Red Sea; and further to offset his failure, his fertile mind conceived the idea of diverting the source of the Nile in Abyssinia, hoping thus to starve out Egypt. It must be admitted that if cutting the Nile had been feasible, that would have been the most effective way of guaranteeing Portugal its monopoly over the Indian trade. Since the viceroy had not the time, however, to wait for the engineers and artisans to be sent from Portugal, he decided to land at Yambo, the seaport of Medina, with four hundred cavalymen, and by a quick rush to seize the treasures at Mecca and Mohammed's body at Medina.¹⁵² The natural difficulties of that scheme, such as the hard march of at least two or three days across deserts, and the sturdy opposition of the Arabs that was certain to be met, dissuaded the Lusitanians.

After starving Jidda, by interfering with the provision ships from Berbera, Zeila, Ras Alargah, and Massawa, the Portuguese fleet started home, pausing only to bombard Aden wantonly and to destroy shipping in that harbor and at Zeila.¹⁵³ In this destruction the Portuguese met no

¹⁴⁹Albuquerque, *op. cit.*, III, 117-118, 210-211.

¹⁵⁰Some spices had arrived at Beirut. Cf. Priuli, *op. cit.*, 247.

¹⁵¹Albuquerque, *op. cit.*, III, 243-245, 253; IV, 25.

¹⁵²*Ibid.*, III, 5-23; IV, 28, 37.

¹⁵³*Ibid.*, IV, 35, 55-58.

effective opposition, for the Arabs had no warships with which to defend themselves. Their sole protection was the impregnable fortress of Aden. Albuquerque did succeed, however, in detaching the King of Fartac from the King of the Yemen, because the latter had impressed some of the subjects of Fartac into his service. Moreover, the King of the Yemen was still further weakened by a successful revolution at Zebid. Thus, although Albuquerque was unable to conquer the whole peninsula of Arabia, he did manage to divide the Moslems, to whom union was essential at this critical moment when they were opposed by the power of mighty, seafaring Portugal. Abyssinia, to the south of Egypt, was hostile, and Ismail, the Shah of Persia, joined the ranks of the Portuguese and indicated to an embassy headed by one Ruy Gomez that he was willing to attack Mecca.¹⁵⁴

But the Arabs were spared an attack from Ismail, for in the following year, 1514, a great war broke out between the Persians and the Ottoman Empire. Hostilities on the side of the Portuguese still continued, however, for the latter refused to allow ships from Cambay to sail to any port in the Red Sea or to Aden. Furthermore, the Portuguese domination over the trade routes and the eastern Arabian coast had become still more widespread by reason of the establishment of the Portuguese in the Bahrain Islands in the Persian Gulf, famous for their pearl fisheries.¹⁵⁵

The war of the Portuguese against the Mamelukes has sometimes been regarded as merely a continuation of the crusades and only secondarily a trade war. Actually, however, the friendship of the Portuguese with Ismail, a Moslem of a heretical sect, the almost complete lack of any missionaries sent out by Portugal to the Arabian lands, and the efforts of the Portuguese that were devoted solely to shutting out the Moslems from the trade with India, show that the Portuguese were primarily interested in obtaining a monopoly of trade, and were prepared to perform any act of what we should today call piracy. The fact remains, after all, that the Portuguese did not declare war, or make any representation to the government of the Mameluke Empire, before they engaged in acts of hostility.

The war had been quite profitable to the Portuguese. Even caravans became less frequent because of the Portuguese aggressions, and the amount of wares available for export from the Mameluke Empire to Venice was so small that the Venetians, in order to raise the money for necessary expenses, increased their prices on the few goods they received from the Orient, even to the extent of doubling them. By the end of the first quarter of the sixteenth century, the fate of the eastern half of the Mediterranean was sealed—the best markets of Europe were supplied by

¹⁵⁴*Ibid.*, IV, 76-78, 50, 88.

¹⁵⁵*Ibid.*, IV, 103, 136.

Portugal. Spain, France, Provence, Burgundy, Flanders, England, Scotland, and Ireland, as well as the larger part of Germany and Holland, all received their Indian wares from Portugal. Even in Italy, Genoa and Leghorn sold the goods from Lisbon to Tuscany and Rome and Naples.¹⁵⁶ It is true that some trade from India to the Levant was preserved, because the Portuguese did not succeed in getting hold of all the Indian ports, and because some of the best wares of India were not available to the Portuguese. These wares in the free ports were sold by merchants who remained favorable to the Moslems.¹⁵⁷

THE DECLINE OF THE LEVANT

At first sight it may seem surprising that the theory should be held that culture and a high civilization are dependent on prosperity. In fact, it has been frequently held that prosperity is the enemy of the two. But the fact remains that culture and a high civilization cannot exist in a society where few have time for leisure, that is, relief from the toil of labor designed only to keep body and soul alive. That the opportunity for leisure lessens in a poor society, needs no proof. But it is not meant by this theory that the loss of the main body of the trade from Europe to India was the sole cause of the depression of culture of the Arabs and the Levant. That loss was merely the first step in leading Europe—western Europe—to a vast prosperity enhanced by the discovery of America. This, combined with the gain by Europe of the trade with India, gave birth to the Industrial Revolution by providing the necessary capital and markets for the disposition of the goods produced by machinery. The discovery of America seems to have completed the process of removing all trade of any importance from the Arab lands. Products that the Far and Middle East had been sending to Europe were soon obtained from the New World, by transplanting seeds from the Orient. Above all, the transfer to Portugal, Holland, France, and finally to England, of the benefits of the trade with India, put capital in lands that had much better resources than the Near and Middle East for developing into the present-day capitalistic, manufacturing society. But the Near and Middle East, since they did not share in this or any similar series of changes and did not enjoy the same advantageous conditions, remained for a time like the old society they had descended from, and then grew poorer.

¹⁵⁶*Itinera Mundi*, 213-214.

¹⁵⁷Quirini, *Relazione*, 9.

PRODUCTS EXPORTED FROM THE ARAB LANDS

(Numbers in parenthesis refer to sources as shown below.)

Alum (14)	Gallnuts (21)	Rose water (1)
Balsam (4)	Gold (1)	Saffron (1)
Balsamwood (4)	Gold worked cloths (17)	Satins (19)
Barley (8)	Grain (8)	Scarlet silks (1)
Bezoar (14)	Grapes (16)	Senna (3)
Brocades (19)	Horses (4)	Shirts (18)
Camlets (1)	Knives (14)	Silk cloth (9)
Cinnabar (12)	Lead (20)	Silver (1)
Colored velvets (15)	Linen cloth (18)	Taffetas (1)
Copper (1)	Madder (9)	Tamarind (7)
Coral (9)	Manna (4)	Thread (9)
Damask cloth (10)	Mecca ginger (3)	Velvets (2)
Dates (8 and 14)	Myrrh (4)	Verdigris (11)
Dragon's blood (11)	Oil of sesame (6)	Vermilion (1)
Dried fish (8)	Opium (2)	Wheat (5)
Dried roses (10)	Quicksilver (1)	Wool cloth (2)
Frankincense (4)	Raisins (22)	Wormwood (13)

(1) Barbosa, *Description*, 23.(2) Caesar Fredericke, *Voyage and Travels*, 428.(3) Barret, *Money and Measures*, 25, 27.

(4) Linschoten, I, 41.

(5) Trévisan, *Voyage*, 209.(6) *Briefe Remembrance*, 230.

(7) Paludanus, 121.

(8) Alboquerque, *Commentaries*, LIII, 83.(9) Barbosa, *Description*, XXXV, 27-28.(10) *Sommario di Tutti*, 325b.(11) Castro, *A Rutter*, 239.(12) Pory, *Description of Places*, 87.(13) Barbosa, *Description*, XXXV, 31.(14) *Journal of the First Voyage of Vasco da Gama*, 97.(15) Barbosa, *Account*, XLIX, 77.(16) *Die Newwelt*, 19b.(17) Sernigi, *Letters*, 128.(18) *Die Newwelt*, 19a.(19) Sernigi, *Letters*, 128.(20) Barbosa, *Description*, XXXV, 60.(21) Barbosa, *Account*, XLIX, 173.(22) Barbosa, *Account*, XLIX, 101.

CHAPTER II

THE TURKISH CONQUEST OF THE MAMELUKE EMPIRE

WHILE THE EMPIRE of the Mamelukes was in great difficulties, that of the Ottoman Turks was expanding and growing strong. Of comparatively little reputation before 1453, the Ottoman Empire was, at the time of the accession of Selim in 1511, one of the three great Moslem powers, even greater than Persia, as events were to show. The Turks, unlike the Arabs, were subject to a hereditary dynasty, which was characterized by energy and capability. In Turkey, too, bodies of slave troops existed, called the Janissaries, and the Spahis of the Porte, but the Emperor was not elected by them. They were distinctly subordinate to him. The Ottoman Empire was not merely Asiatic or African, as that of the Mamelukes, but extended far into Europe, and contained many people famous for their warlike qualities. In case of need, the common men were drafted into the army, while in Egypt and Syria fighting was the prerogative of the Mamelukes, who did not exceed thirty thousand all told, including warriors and officials of the government. Only in case of dire need did the Mamelukes call upon the untrained, unmilitary, and poorly armed Beduins to fight. The possession of arms was not permitted to the Arabs living in towns or on farms. Since the prosperity of the Turks did not depend on international trade, as did that of the Arabs and their rulers, the economic catastrophe experienced in the Mameluke Empire during the first decade of the sixteenth century did not affect the Turks, while the Arabs were weakened by it.

Frequently discord had existed in the relations of the Ottoman and Mameluke Empires, but always the Mameluke Empire had been stronger than its northern foe. As far back as Mehmed II, a war had been averted only by his death and by internal conditions in Egypt. Bayezid II could not endure the insults from the Mamelukes, and went to war with them, but was defeated repeatedly (1482-1491). Hostilities again were narrowly avoided in 1499, but relations became easier in 1504. The Ottoman Empire even furnished the Mameluke Emperor, Kansuh al-Ghuri, equipment to fight the Portuguese in 1511 and 1512. But the advent of the next Turkish emperor, Selim the Grim, saw a mighty change. The weakened Mameluke Empire, which had just seen its last efforts to regain its old prosperity ruined, had now to face a man of ability.¹

¹Fisher, *Sultan Bayezid II and the Foreign Relations of Turkey*, 38-47, 73, 137, 152.

Selim was a powerful, energetic, and able ruler. His opponents among the Mamelukes possessed none of his generalship. The Mameluke soldiery were loyal and possessed morale only when they were well paid, and they had not a whit of patriotism; the whole campaign of the Conquest was marked by their repeated strikes for more pay. Moreover, the equipment available to the rulers of the Arabs was out of date. For example, in Syria they had no cannon or harquebuses. The Turks, on the other hand, were loyal to their ruler, Selim, who kept a very firm hand on them. The pay of the Turkish soldiers reached them when it was due, even when they were far from home. Their generals saw to it that they had the best equipment, and that they had it when they needed it. It may be remarked that under Selim the Turks did not lose a battle.

If Selim had been looking for trouble, he had occasion to start it on his very accession, for two of his brothers took refuge, one in Egypt and the other in Persia, from fear of the usual fate of the royal family of the Ottomans, namely, death at the hands of the new emperor.² Unwilling to start a war on the harbinger of a possible rival to himself,³ Selim did not complain to the Mameluke government, but received its ambassadors honorably shortly after his accession.⁴

An important cause for peace between Turkey and the Mamelukes was their mutual worry over Persia, which was large and powerful and still expanding. In the first decade of the sixteenth century, Shah Ismail, the King of Persia, had conquered most of Kurdistan, north of Mesopotamia and Iraq,⁵ and thereby had come close to the Turks and Mamelukes. Ismail had even fought with Ala ed-Devlet, the ruler of the buffer state, Dhu-l-Kadr, lying north of Syria and southeast of Turkey, whose territory was claimed by both the Ottoman and Mameluke Empires. Ismail, besides, had received at his court the rivals of Selim and had tried to bring Egypt into a league against the Ottomans. When in 1514 Ismail defeated his last serious enemies to the north, the Usbeks under Sheibani Khan, Persia became dangerous indeed, for to its east lay only weak India, and to the south merely the Indian Ocean.⁶

In 1514 when traitorous officers of Ismail invited Selim to attack the Persians, the Sultan seized the opportunity offered, inasmuch as Ismail, with much of his army, was fighting the ruler of Samarkand; and Selim defeated the Persian army at Chalderan. In this same campaign, Shah 'Ali Bey, the Kurdish ruler of Mesopotamia (Jezireh), probably in fear

²Leunclavius, *Historiae Musulmanorum de Monumentis Ipsorum Exscriptae*, XVIII, 686.

³Cf. Lane-Poole, *Story of Turkey*, 153.

⁴Leunclavius, *op. cit.*, 689.

⁵Zeno, *Travels in Persia*, in Hakluyt XLIX, 54-55; *Travels of a Merchant*, in Hakluyt XLIX, 194, 197-198, 201; Anonymous, in Ramusio, *Discourse on the Writings of G. M. Anni otello*, 105-109.

⁶Zeno, *op. cit.*, 50, 57-58; Fisher, *op. cit.*, 38; Jonquière, *Histoire de l'Empire Ottoman*, I, 138; Muir, *Mameluke or Slave Dynasty*, 194.

of Ismail, by whom he had been attacked, submitted to Selim.⁷ Thenceforth this province belonged to the Ottoman Empire.⁸

Now the tables were turned and the strongest power in the Moslem Orient was Selim. Desperate for allies, Ismail, in October, 1514, sent ambassadors to Kansuh al-Ghuri, the Sultan of the Mamelukes, to Ala ed-Devlet,⁹ and to the King of the Iberians, or Georgians, with the result that these four powers agreed not to maintain any diplomatic relations with Selim and to furnish aid to each other. By this adroit piece of diplomacy Ismail had formed a border of enemies all around the east and southeast of Turkey.¹⁰ But Selim acted quickly and wisely, and in the spring of 1515 defeated Ala ed-Devlet and incorporated his lands in the Ottoman Empire. Kansuh al-Ghuri broke his treaty with Persia in April, 1515, by sending an ambassador to Selim. Perhaps Kansuh had not been certain which was the more powerful and dangerous, Turkey or Persia. If Selim had not crushed Ala ed-Devlet, all the passages which the mountainous country of Dhu-l-Kadr contained would have been held against the Turks, in case of an attack on Syria. But the Turkish possession of the most dangerous passages made it very difficult for Persia to attack Turkey successfully. Kansuh could see that the balance of power was turning decidedly in Selim's favor, but the Mamelukes did nothing until 1516.¹¹

HOSTILITIES BEGUN BY THE MAMELUKES

When Kansuh heard from Ismail, in 1516, that the war between the Turks and Persians was to continue, he grew nervous and decided to advance into Syria and join with the Persians to defeat Selim.¹² The Mameluke soldiers feared a war with Selim and decried its necessity,¹³ but Kansuh was determined to stop Selim, peacefully if possible—if not, then by war.

The Mameluke Empire was in a bad state. There was no feeling of patriotism at all, merely a sentiment of disgust, for the army and the people felt that since Selim had not invaded Mameluke land there was no *casus belli*. The announcement of the expedition came suddenly, and no preparations had been made. The provisioning of the army caused a near-famine among the people. Horses were taken from mills, with the

⁷Ismail had repeatedly tried to conquer the land and had imprisoned 'Ali (Chérèfouddine, *Chérèf-Nameh*, I, pt. 2, 152-153).

⁸'Ali died about 1514, leaving his son Bedr Bey, who ruled for 70 years. Throughout all his tenure, he loyally attended the expeditions against the Persians. Under Rustem Pasha, he fell into disfavor and for two years lost the office. Suleiman then restored to him all his principality save the two cantons of Thur and Hejteme, which were given to Bedr Bey's brother. On the latter's death, Bedr Bey again obtained these. He was succeeded by his son, Mir Mohammed. (Chérèfouddine, *op. cit.*, 155-157.)

⁹Ruler of the buffer state of Dhu-l-Kadr and Ismail's former enemy.

¹⁰Ramusio, *op. cit.*, 122-123; Zeno, *op. cit.*, 64-65.

¹¹Rustem Pasha, *Chronik*, 40, 42, 43.

¹²Muir, *op. cit.*, 195-196; Chalcondyle, *Histoire Générale des Turcs*, 435.

¹³A. Cambini, *Dell'Origine*, 147a; Ibn Iyas, *Account of the Ottoman Conquest of Egypt*, 1-2.

result that the latter could not make flour, and whatever flour there was the soldiers needed. Tailors and merchants went into hiding in order to avoid furnishing compulsory services and contributions. Slaves concealed themselves, from fear of being drafted. The treasury was low, and the officers in the army could be paid only one-third or one-sixth of what they had been paid twenty-seven years before. The troops showed discontent and insolence when the equipment furnished them did not please them, and some in the Sultan's retinue were not paid at all. Heavier taxes than ever before were imposed to finance the war. Small villages were required to maintain two horsemen, and larger towns four. The fellahin could not endure this. They fled, leaving their crops and deserting the villages. The emirs (governors) knew that such conditions were dangerous, and their representations forced Kansuh to cancel the orders for heavier taxation and return what had been taken. This caused the soldiers who were left behind in Egypt to receive no salary. So poor was Egypt, that the funds taken on this expedition against the Turks equalled only one quarter of those taken twenty-seven years before. Even at that, Kansuh al-Ghuri had to drain every coin from the imperial coffers, and the last part of the expenditures for the army had to be financed by debasing the coinage.

The preparations for the expedition took longer than had been expected, thus permitting the Turks to advance much nearer the Mameluke Empire. Kansuh al-Ghuri set forth from Cairo for Syria on the 17th of May, 1516, sixteen days later than the date first announced for the departure. He regarded the situation as so serious that he took along practically every Mameluke capable of bearing arms, only two thousand of the old and sick being left to guard Egypt. Tuman Bay was left behind as regent.¹⁴

As Kansuh journeyed through his northern domains, Palestine and Syria maintained at least an outward show of loyalty to their Sultan, for the towns of these countries received him honorably.¹⁵ Damascus, in fact, had a great celebration for him. But here again was shown the lack of discipline prevalent among the Mamelukes, for when the European merchants showered gold and silver coins on Kansuh, his slave troops, in their greedy rush, almost pushed their ruler from his horse. Kansuh went from Damascus to Homs, and thence to Hamah¹⁶ on the route to Aleppo, where he arrived July 10th, 1516.¹⁷

In Aleppo, the most important town in northern Syria, Sultan Kansuh

¹⁴Ibn Iyas, *op. cit.*, 1-10, 15-18, 24, 60; H. Jansky, *Die Eroberung Syriens durch Sultan Selim I.*, 193.

¹⁵Their reception seems merely "outward," in view of their subsequent easy "conquest" by Selim.

¹⁶Ibn Iyas, *op. cit.*, 23-25.

¹⁷H. Jansky, *op. cit.*, 201.

al-Ghuri received an embassy from Selim, headed by Mavlana Rukneddin and Karaja Pasha. A member of the company wrote some noteworthy memoirs on the war of the Conquest, that are still extant.¹⁸ The embassy represented to Kansuh that Ala ed-Devlet had been killed as a rebel; that if Kansuh chose he might remove or retain Selim's appointee to the governorship of the late ruler's province, Ibn Suwar; and that if the Mamelukes wished Selim would give them Ala ed-Devlet's territory, which had just been incorporated in his domains. This conciliatory message was not news to Kansuh, for he had received a hint of it some time before through an emir of his, Inal Bey, who had been sent to Aleppo to investigate Selim's activities. Kansuh had continued his warlike preparations then, and was not likely to accept the friendship of Selim now, except on the condition of getting a substantial consideration. Kansuh refused to believe that Selim intended war against Ismail only, and in turn he claimed Caramania as well as all the territory of the late Ala ed-Devlet. He further demanded that Ala ed-Devlet's province be delivered to the latter's son, who had fled to Egypt and was now in the retinue of Kansuh. In addition, he insisted that Selim desist from the war against the Persians. Of course, the Turkish embassy knew that Selim would not agree to the latter condition, in spite of the fact that he had given them full power to come to an agreement. Kansuh was, therefore, violently displeased with the result of the consultation, and threw the envoys into prison.¹⁹

Too long have the Turks been regarded as the aggressors in the war of 1516-1517. Of course, it cannot be known definitely whether Selim was sincere in his offer to turn over Ala ed-Devlet's lands to the Mamelukes, but there is certainly no evidence in support of the old opinion that Selim was merely trying to delay the expedition of the Mamelukes. Of Kansuh's intentions, however, there can be no doubt, for he had sent an ambassador to Ismail,²⁰ against whom the Turks were marching, and also had taken along on the expedition a nephew of Selim, Kasim Ibn Ahmed Bey Ibn Abu Yazid, who had fled when his father Ahmed was executed by Selim upon the latter's accession to the throne. Indeed, Kasim was given a royal outfit,²¹ and it seems clear that he was being groomed to succeed Selim as Emperor of the Turks and vassal of the Mamelukes. The presence of the slain Ala ed-Devlet's son is difficult to explain, except on the ground that he was to be used to draw away as many of the troops as possible that came from his father's province.

¹⁸Ramusio, *op. cit.*, 124; Paolo Giovio, *Istorie*, I, 469.

¹⁹Rustem, *op. cit.*, 46; Ramusio, *op. cit.*, 124; Ibn Iyas, *op. cit.*, 16-17, 32-33; Jansky, *op. cit.*, 190, 201-202; Paolo Giovio, *op. cit.*, I, 469, 470, 475-476; Sanuto, *Diarii*, II, 584, XXII, 567.

²⁰Ibn Iyas, *op. cit.*, 9.

²¹Rustem, *op. cit.*, 45; Ibn Iyas, *op. cit.*, I, 20-21. The Caliph himself had grudgingly been assigned an amount less than what Kasim got (*ibid.*, 3, 7, 21).

ACTIVITIES OF SELIM

While the Mameluke army was advancing into Syria, the Turks were preparing too. Sinan Pasha, the leading general of Selim, had been sent to Albistan, with orders to wait for his sovereign.²² There, on the 23rd of July, 1516, he was joined by Selim, who at the same time received another emissary from Kansuh, requesting the Turk to stop the war against Persia. Selim refused, saying that he would have agreed if Kansuh had made the request from Egypt, but that such a demand from northern Syria was a different matter, especially because it was made at the head of a powerful army. Now the die was cast. The Ottoman Empire was engaged in a life and death struggle which, according to past events, should have resulted in the defeat of the Turks. The Mamelukes had won in all former battles between the two Empires; and now there was Persia to be faced, too. The consequences of a victory for the Mamelukes would have included at least the limitation of the Turks to Asia Minor, and probably also the death of Sultan Selim. But, instead, Turkey was engaged in a war destined to give her the leading place in the Levant and, for a short time at least, parity in world power with the rising empire of Charles V.

Selim must have realized the seriousness of his position, for he knew that the army of the Mamelukes was very near him, that heretofore it had beaten the Turks, and that an early victory was highly important in order to avoid being crushed by the combined forces of the Persians and the Mamelukes. Even if the two did not combine, he had to fear attack from the rear by the Persians. He was not certain what the Persians were able to do, so instead of taking the road directly from Marash to Aleppo, to attack the Mamelukes, he decided to go first in an easterly direction to Malatia, for there he could act according to developments—either face the Persians in Diyarbekir, a province to the northeast of Syria, which he had wrested from the Persians in 1515, or turn to Aleppo. Selim marched toward Malatia, but in order to prevent a war, if still possible, he did not enter the town, which was under the dominion of Kansuh.²³

Selim was informed, on July 30th, that the Mamelukes had marched out of Aleppo. A few days later, on August 4th, the council of the Turks decided that war was inevitable with Kansuh, and resolved to give up the campaign against the Persians. The next day, August 5th, the Turks began their march on Aleppo. Hardly had Selim set his army in motion, when he was met by a final envoy from the Mamelukes, the dawadar

²²Ibn Iyas, *op. cit.*, 32; T. Venier, *Letter*, in Sanuto, XXII, 567; Sanuto, XXII, 520; Ramusio, *op. cit.*, 124. Albistan was 38 miles north of Marash.

²³Jansky, *op. cit.*, 205-208.

(secretary) Mughulbay Sikkim. Enraged at a military man's being sent as ambassador—the custom seems to have been to send jurists, and Mughulbay was selected merely to intimidate Selim²⁴—and remembering that his own envoys had been insulted and imprisoned, Selim had the retinue of the ambassador slaughtered. Only by the intervention of Yunus Pasha, a high official of Selim's, was Mughulbay himself saved. But the unfortunate envoy had to endure the indignity of having his beard and hair shaved, after which he was covered with a night-cap and sent back on a lame ass to Kansuh.²⁵

When Mughulbay returned, Kansuh saw that it had come at last to war, and he at once dispatched Kurtbay to explore the surrounding country. Unfavorable, indeed, was the report of the returning Kurtbay, for he discovered that the population north of Aleppo was hostile to the Mamelukes. The naib (governor) of Aintab, named Yunus Bey,²⁶ had already gone over to Selim. To decide on what course to pursue, Kansuh summoned a council of war. This body was witness to an ugly scene, when Sibay, the naib of Damascus, accused Khair Bey of treason. By the intervention of Janbirdi al-Ghazali, however, Khair Bey was absolved of the charge, and allowed to retain his command.²⁷ Ghazali advised that the Mamelukes retire to Damascus because, he claimed, Aleppo, though provided with but a small garrison, would not easily surrender, for the Turks had only light guns, not fit for a siege; and because to retire would create difficulties for the Turks in the way of obtaining food. He said that in the meantime the Mamelukes would be joined by the rest of their forces and by the Arabs, that the withdrawal would give the Persians time to bring aid and even to attack the Turks from the rear, and that the Mamelukes could then get artillery from the Christians in Cyprus and Rhodes. This strategy would probably have been effective,²⁸ and the members of the council were influenced favorably by the reasoning of Ghazali; but the Mameluke soldiery had become enthusiastic for an immediate battle, for they had heard that the Turks were near. As spokesman they had the traitor Khair Bey, whose hate was aroused when his brother was poisoned by Kansuh some time before. Khair Bey's advice prevailed, to the undoing of the Mamelukes, for even during the sessions of the council he was entertaining relations with Selim and had arranged to betray Kansuh.²⁹

On Tuesday, August 19, 1516, Kansuh broke camp with all his army and moved to the north. Believing correctly that the battle would take

²⁴Jansky, *op. cit.*, 209-211.

²⁵He was put in irons (Ibn Iyas, *op. cit.*, 36). For the Turks, the report is that Mughulbay demanded that Selim surrender Albistan and Marash (Rustem, *op. cit.*, 46-47). H. Jansky, *op. cit.*, 211-212.

²⁶Not to be confused with Yunus Pasha, the Turk.

²⁷Jansky, *op. cit.*, 212-213.

²⁸Mignot, *History of the Turkish Empire*, I, 268.

²⁹Paolo Giovio, *op. cit.*, I, 479-481.

place near Aleppo, the Mamelukes left all their baggage in the town. It was an ill omen that the departing soldiers were cursed by the townsmen, who hated those who should have been their protectors but instead had performed all sorts of exactions and extortions on their subjects. The stupid troops were to rue their insolent actions in ejecting the inhabitants from their dwellings in order to secure better quarters for themselves.³⁰

It was characteristic of the suspicious policies of the Mamelukes that the vanguard was entrusted to the mutual enemies, Sibay and Khair Bey, governors respectively of Damascus and Aleppo. Perhaps Kansuh thought they would both feel more secure if they could keep their eyes on each other, and that they would then not betray each other nor their sovereign.

A final halt was made the next day on the plain of Marj Dabik, where David's tomb is supposed to be.³¹ Kansuh bruited the canard that the opposing army consisted of Christians, Armenians, and other disliked peoples. Obviously he aimed thus to embitter his soldiers and the Syrians against the Turks, and to give the impression that this was a holy war of Moslems against Christians.

Meanwhile, Selim left Malatia, which he entrusted to a Turkish governor, and started out for the southwest. To enhearten his soldiers, who knew as well as he did that their predecessors had been badly defeated by the Mamelukes, and to prevent their morale from collapsing, Selim took the occasion to deliver a speech of encouragement to his Janissaries, in whom throughout he placed his greatest confidence. The Janissaries were a body of soldiers corresponding very nearly in origin and privileges to the Mamelukes. They differed, however, in that the Janissaries were levied from Christian parents indiscriminately, and not mainly from the Circassians, as were the Mamelukes. Furthermore, the Janissaries were infantry, and not cavalry as were their opponents. Selim told his men that victory would be easy for the Turks if they would attack resolutely; that their opponents were no longer superior, as they had been in the past; that they were rather exhibition horsemen than soldiers, corrupted by long peace and luxurious living in towns; that they had never seen a camp, nor heard a trumpet, except in play; that they had no artillery and no infantry; and that the Turks had been promised victory by their clergy. The Janissaries responded enthusiastically. The mountains separating them from the Mamelukes were easily crossed, by three routes. Bands of Azabs and natives sent ahead to clear the roads did their task well, so that supplies and the guns kept up with the progress of the army. Those who exerted great efforts to keep the artillery up with the soldiers were promised large gifts. The cannon-balls

³⁰Ibn Iyas, *op. cit.*, 40-41; Rustem, *op. cit.*, 47; Jansky, *op. cit.*, 208, 213.

³¹Jansky, *op. cit.*, 214; Ibn Iyas, *op. cit.*, 40-41; Rustem, *op. cit.*, 47.

were carried on the shoulders of the troops over hills and through the numerous valleys. Toiling on for five days, the army at last crossed the Amanus Pass, about one hundred miles north of Aleppo. Loyalty to their Sultan and their hardy natures were probably no more important in sustaining the spirits of the men than were the prospects of pillaging the rich and lovely land of Syria.³²

To insure that his troops would be content, Selim advanced from his own treasury money to pay the expenses of his spahis, or feudal levies, who could not possibly raise the money, since their deputies back home could not easily send on the dues from their estates.³³ Selim further ordered the deputies to make every effort to collect and forward the amounts forthcoming. In addition to this, the Sultan gave out the usual presents. While the Turks were getting what was due to them, the Mamelukes were discontented, for Kansuh had to pare his budget and reduce the pay of his soldiers by forty per cent and even withhold pay from one division of his men. Such a measure would dissatisfy even patriotic soldiers; it can be imagined what an effect it had on the selfish Mameluke mercenaries.³⁴

THE BATTLE OF MARJ DABIK

In a preliminary encounter with the Mameluke vanguard, the Turks were victorious and took numerous prisoners. After resting a day at Aintab, and deliberating on the strategy to be followed in the battle, Selim continued his march, with his army in four separate divisions, and on August 23, 1516, he arrived within sight of the enemy.³⁵

As the sun came up on Sunday, August 24, the Ottomans prepared for one of the most important battles in their history, the battle of Marj Dabik.³⁶ If they should win, they would be free from guarding the south-east of Asia Minor while they fought in Europe, and would gain pre-eminence over all the other Moslem countries. Oddly enough, there are many seriously varying accounts of what happened; even the numbers of the troops cannot be definitely known. The safest estimate of the Mameluke forces is sixty thousand men, of whom from twelve thousand to fifteen thousand were Mameluke regulars, the rest Syrian and Egyptian troops. The cavalry charges of Kansuh's slave troops were what Selim feared most, so he placed before his front line a rampart of camels, carts, and trees, with cannon at both ends.³⁷

Of the Mamelukes, Khair Bey's forces were the best attended to,

³² Paolo Giovio, *op. cit.*, I, 477-478.

³³ Cf. Lybyer, *The Government of the Ottoman Empire*, 98.

³⁴ Tischendorf, *Über das System der Lehen*, 43-44; Ibn Iyas, *op. cit.*, 35.

³⁵ Ramusio, *op. cit.*, 125; Jansky, *op. cit.*, 214-215.

³⁶ Halil Edhem, *Tagebuch der Aegyptischen Expedition*, 14; Jansky, *op. cit.*, 215-217, note 3.

³⁷ Youssouf Fehmi, *Histoire de la Turquie*, 55.

for his camp was within ten miles of Aleppo and along the river Singa, easily provisioned by the townsmen.³⁸ Khair Bey and Janbirdi al-Ghazali met the van of the Ottoman cavalry, repulsed them, and hurled them into flight, taking several banners and harquebuses as spoils. The two wings of the Turks were in great danger. As the wavering Ottoman cavalry fell back on their own men, Selim sent his best general, Sinan Pasha, to the support of the right wing, and the vizier Yunus Pasha to that of the left, while he himself sprang into the foremost ranks of the Janissaries. The gunfire of the Turks created havoc in the ranks of the Mameluke cavalry, causing them to falter, and giving the Ottoman horsemen time to reform their lines. Losing their élan, the Mamelukes were in turn thrown into disorder. If Kansuh had now advanced with his fresh Jelban³⁹ on foot, the counterattack of the Turks might have been broken. But the Mamelukes became exhausted and retired to their main lines, while the Turks gained courage and pressed on.⁴⁰ At this critical moment came the time for Khair Bey to perform his service for Selim. The traitor rode up to Sultan Kansuh al-Ghuri's tent and informed his sovereign that the battle had gone against the Mamelukes, that Kansuh was surrounded by the Ottomans. No sooner had Khair Bey finished than he started off for Aleppo.⁴¹ This report spread quickly through the ranks of the struggling Mamelukes, and was believed by them. In their panic the soldiers thought only of saving themselves and began to flee in all directions. In a trice the rout was general. The battle was lost, and so was Syria.⁴² Trying in vain to stop the flight of his men, Kansuh was overcome by the heat, the effort and bitter disappointment of the day, by his great age, and probably by hernia,⁴³ which prevented him from riding fast, and so came to his death. The horses of both armies trampled his body. Whether his corpse was ever found is disputed and must remain uncertain. The Ottoman cavalry was busy riding down the fugitives, so as not to give them time to rally.⁴⁴

Fought from the early hours of the morning till late afternoon, the battle of Marj Dabik resulted in the complete defeat and rout of the Mamelukes. Selim did not realize how complete his victory was, for he refused to let his infantry start in pursuit of Kansuh's men from fear of an ambush.⁴⁵ Although the artillery of the Turks by its noise created greater effect, especially on the horses, than by the balls, yet this was in

³⁸ Paolo Giovio, *op. cit.*, I, 481.

³⁹ A class of Mamelukes. The Korsan was another class.

⁴⁰ Jansky, *op. cit.*, 219; Paolo Giovio, *op. cit.*, I, 483.

⁴¹ Ibn Iyas, *op. cit.*, 42; Jansky, *op. cit.*, 219.

⁴² Paolo Giovio, *Informazione*, 213a; Jansky, *op. cit.*, 219-220; Cambini, *op. cit.*, 147b.

⁴³ Many Egyptians suffered from this disease (John Leo, *History*, III, 182). Paolo Giovio ascribes Kansuh's death to hernia (*Informazione*, 213a). Ibn Iyas, however, attributes it to "a kind of paralysis" (*Account*, 43), and says his body was never found (*ibid.*, 44). See also Jansky, *op. cit.*, 220-221.

⁴⁴ Paolo Giovio, *Informazione*, 213a.

⁴⁵ Cambini, *op. cit.*, 148a.

itself enough to prove highly important, because most of the Mamelukes were horsemen and were only as effective as their horses.⁴⁶

Selim kept as many as possible of his soldiers under arms on the battlefield.⁴⁷ But there was no danger for the Turks, because the Mamelukes had been too severely beaten. Many emirs and the governors of Damascus, Tripoli, Safed, and Homs had been killed. In short, the governmental organization of much of Syria was paralyzed. The entire camp with all its booty came into the power of the Turks, who, by order of their Emperor, beheaded two thousand Mameluke prisoners.⁴⁸

THE CONQUEST OF SYRIA

The remnants of the Mameluke army, fleeing to Aleppo, and incidentally falling to blows with one another, cast their arms away for greater speed. They found that the inhabitants of Aleppo had already heard of the Mamelukes' defeat. Khair Bey had arrived some time before, and the townsmen had closed the gates, determined not to let the old garrison pillage them once again. In fact, the townsmen killed those Mamelukes they got hold of, because the slave soldiers had many times attacked their wives and daughters. The blow was hard, for the troops had left all their baggage in the town. Since they had neither the materials nor the time to lay siege to Aleppo while the Turks were at their heels, the fugitives made instead for Damascus, where they arrived in pitiful condition, unclothed, some on donkeys and others on camels.⁴⁹

Khair Bey, in Aleppo, did not choose to give aid to his former comrades by opening the gates; instead, he pretended that he could not persuade or force the townsmen to open the gates. He convinced the son of Kansuh, Sidi Mohammed, who had been left behind in Aleppo, to return to Egypt and seek the throne of his father. On August 25, 1516, Sidi Mohammed left Aleppo and started the long retreat to Cairo, with a good part of the Mamelukes, whom he met outside the town.⁵⁰

Selim had sent Yunus Pasha ahead with a detachment of light cavalry, in chase of the Mamelukes. A few hours after the departure of Sidi Mohammed they reached Aleppo and entered the town without resistance, for the inhabitants deemed opposition perilous to the city.⁵¹ Hardly stopping in Aleppo, Yunus continued his pursuit to Hamah. There he received a message from Khair Bey, who had joined the Mamelukes and had then fled from them at Homs after the emirs began to

⁴⁶Maral, *Geschichte der Regenten*, 439; Cambini, *op. cit.*, 147b; Giovio, *op. cit.*, 213a.

⁴⁷Cambini, *op. cit.*, 148a.

⁴⁸Ibn Iyas, *op. cit.*, 44; Halil Edhem, *op. cit.*, 14; P. Giovio, *Istorie*, I, 483. The old Koran of 'Othman, a very precious relic, was lost in this battle of Marj Dabik (Lammens, *La Syrie*, II, 50).

⁴⁹Sanuto, *op. cit.*, XXIII, 107; Cambini, *op. cit.*, 146a; Jansky, *op. cit.*, 224; Ibn Iyas, *op. cit.*, 46-48.

⁵⁰Sanuto, *op. cit.*, XXIII, 328-329; Jansky, *op. cit.*, 224-225.

⁵¹Paolo Giovio, *Istorie*, I, 484.

suspect him. Khair Bey offered to join the Ottoman forces and was accepted by Yunus, who sent him on to Selim. The latter graciously received Khair Bey and assigned him the distant sanjak of Küstendil in Bulgaria.

Sultan Selim entered Aleppo with the main army of the Turks on August 28, 1516. He was solemnly greeted by the inhabitants of the town, and picked up a large amount of booty, for most of Kansuh's riches had been left behind here. Vast treasures of gold and silver, jewels, precious cloths, stuffs of every kind, numerous weapons, and all kinds of provisions, were among the spoils. The soldiers plundered apparently without restraint for two days, after which they obeyed their Emperor's order to return the booty to its owners. Selim seized the treasury of Kansuh, amounting to 800,000 ashrafi, or 560,000 ducats, and from Khair Bey he got one hundred fifty slaves and three thousand ducats. The gratified Emperor said he would make Khair Bey governor of Egypt, and showed his fondness for punning by calling him Kha'in Bey, meaning traitor. Turks were appointed to the posts of governor, judge, and treasurer.⁵²

While in Aleppo, Selim received three of the judges and the Caliph, whom Kansuh had brought along from Egypt. The Caliph was received most kindly by Selim, but the judges were upbraided for "not having rightly guided" their late Sultan Kansuh, and for venality.⁵³

The fall of Aleppo also caused the towns on the border of Turkey, such as Malatia, Divrigi, Behesni, Aintab, and Kalaat er-Rum to surrender to the victorious Ottomans. Not knowing what measures the Mameluke government in Egypt would take, Selim, in order to assure his possession of Syria, confirmed Mahmud Bey and other indigenous Kurdish emirs of the Turcomans and Kurds in possession of the regions which they ruled. In this way he acquired their loyalty, while at the same time he saved himself the trouble of sending expensive expeditions to conquer none too valuable regions.⁵⁴

Selim had not forgotten the Persians, whom he had been forced to neglect because of the seriousness of the war with the Mamelukes, and he now sent a detachment to operate on the Shah's borders. He showed his intention of retaining his new conquest, however, by attending the important Friday prayer in Aleppo, at which ceremony, as is the custom in Moslem lands, his name was mentioned as the ruler of the land. An indication of the importance of this seemingly insignificant ceremony is to be found in the fact that the omission of the name of the ruler, or the

⁵²Paolo Giovio, *Istorie*, I, 484-485; Jansky, *op. cit.*, 225, 226; Sanuto, *op. cit.*, XXIII, 328-329.

⁵³In the Mameluke Empire, as throughout most of the Moslem world, there were four sects or schools of religion, each of which had its own set of rules or laws to be followed by its adherents. To provide for the enforcement of these laws there were four judges. One of these had fled on the approach of the Turks, for he had incurred the enmity of Selim. Over all the orthodox Moslems in the world was the Caliph, who performed functions somewhat resembling those of a bishop. In the religion there was no human authority higher than he.

⁵⁴Hammer, *Geschichte*, II, 476.

substitution of another name for the constituted one, is frequently the sign of revolt.⁵⁵

Selim left Aleppo on September 16. On the 20th of the same month he took Hamah, and two days later Homs. These two towns, with their surrounding regions, he organized into eyalets (districts) and appointed Turks as governors over them. Tripoli was taken by Selim with no resistance; in fact, the townspeople went forth to greet him. And on October 9 Selim's army made its formal entry into the city of Damascus, where not the slightest resistance was offered by the Arab sheikh whom the retreating Mamelukes had made governor.⁵⁶ The inhabitants, in view of their speedy capitulation, were accorded their land, persons, and goods.⁵⁷ With the fall of the capital of Syria, the whole province up to the border of the desert of Sinai had received a new master. To their new Emperor were sent envoys offering loyalty from the maritime towns in particular, such as Beirut, Saida, Antioch, and Ptolemais. Selim assigned garrisons and officials to all of these, just as he had to Aleppo, Hamah, Homs, and Tripoli. To the most deserving of his soldiers he granted sanjaks⁵⁸ in the surrounding regions. Damascus, which had covered the path of Selim with silk cloths, in token of submission, was recognized by him as the capital of Syria.⁵⁹ The trade of the merchants who made Damascus their market was carefully protected from any damage by the soldiers, under very stringent rules made by Selim. Even the famous gardens of the town were guarded from the plunder-greedy troops. In order to remove as much as possible the temptation for pillaging, great care was taken to see that the soldiers were given ample provisions, and about two million aspers (about \$100,000) were given them in addition to their pay.⁶⁰

A few days after the submission of the Syrian towns, Selim convoked a great assembly outside Damascus, near the walls of the town. Present were the learned men of the law and also the envoys of the towns. Selim listened carefully to the representations of those who attended the convention and thus judiciously settled the differences of the Syrians. He had put governors, garrisons, and various officials in the districts and towns, and now he established a scale of customs laws. With liberality and justice he modified the old Mameluke laws, abolishing some of them. It was probably at this assembly that he instituted a commission of jurisconsults to draw up a cadaster of the whole land for purposes of taxation.⁶¹ Unfortunately for Syria, however, Selim retained the old

⁵⁵Jansky, *op. cit.*, 226-227.

⁵⁶Jansky, *op. cit.*, 229, 232-233; Sanuto, *op. cit.*, XXIII, 116, 137; Paolo Giovio, *Istorie*, I, 483, 484, 421-422.

⁵⁷Ramusio, *op. cit.*, 148; Cambini, *op. cit.*, 148a.

⁵⁸Fiefs, the tenure of which depended on military service.

⁵⁹Leunclavius, *op. cit.*, 715, 716; Ramusio, *op. cit.*, 148; Cambini, *op. cit.*, 148a.

⁶⁰Paolo Giovio, *op. cit.*, I, 485; Hammer, *op. cit.*, II, 492.

⁶¹Cambini, *op. cit.*, 148b; Ramusio, *op. cit.*, 148; Tischendorf, *op. cit.*, 44; Jouplain, *La Question du Liban*, 83.

custom of farming out the collection of taxes to the highest bidder. Finally, he provided for partition of Syria into lands belonging to the Emperor and to private individuals. The latter were further divided into large and small fiefs. For himself, Selim reserved the plain of the Bekaa and the valley of the Orontes, with Baalbek and Homs.⁶²

Before Selim could regard Syria as conquered, he knew that he must come to some agreement with the inhabitants of the Lebanon, the Druzes and Maronites. But to drive them from their rocky citadels would have been a stupendous task, and this Selim realized. Besides the difficulties of locating the strongholds, there would have been guerilla warfare to combat, and this would have endangered his position very much, because he was vulnerable to attacks from the Egyptians and the Persians. Perhaps the consideration that the Lebanon was not worth very much after all determined him to come to terms. Therefore, Selim welcomed the Lebanese emirs, confirmed them in their fiefs, and imposed but a slight tribute on them. The emirs became almost nominal vassals of either the Sultan or the pashas or governors whom he had set over Aleppo, Tripoli, Saida, and Damascus. The emir Fakhr ed-Din, from the Lebanon, for example, although he had fought on the Mameluke side at Marj Dabik, submitted and was confirmed as governor of the Lebanon. These petty princes of the Lebanon still retained the right of life and death, the right to impose taxes and duties, to conclude treaties with foreign powers, and to maintain their own army and flag.⁶³ The latter rights, however, were not so serious as they might seem, for the Lebanon was separated from the seacoast by the more firmly held Turkish possessions, and so it was cut off from actively aiding or receiving aid from Turkey's enemies, the European powers.

In view of the very bad reputation the Turks have acquired for their activities in Syria, it is interesting to note that the only people to whom Selim showed enmity in that country were the Mamelukes. These he did his best to exterminate, even to babies in the cradle. He was surpassed in this ferocity, however, by the Syrians themselves who savagely hunted down every Mameluke they could, in revenge for the arrogance, extortions, and extreme cruelties that the Mamelukes had inflicted upon them. The Venetian merchants, the Jews, and the Christians were all treated well by Selim; in fact, he gave an annual stipend of five hundred ducats to the Franciscan brothers of the Holy Sepulchre in Jerusalem, and lowered the visa fee of pilgrims from thirteen ducats to five aspers. These fees had been the occasion for vigorous complaint. The Turkish Emperor favored commerce by cutting the customs down from the old twenty per cent to five per cent.⁶⁴

⁶²Ristelhueber, *Traditions françaises au Liban*, 19; Jouplain, *op. cit.*, 86, 87.

⁶³Ristelhueber, *op. cit.*, 19; Jouplain, *op. cit.*, 86; *Histoire des Emirs Maan*, 271-272, 275; Khairallah, *La Syrie*, 61; Sanuto, *op. cit.*, XXIII, 325-326, 133, 439.

⁶⁴Jansky, *op. cit.*, 233.

THE CAPTURE OF CAIRO

In Egypt, Tuman Bay, who had been left behind as Regent by the late monarch Kansuh al-Ghuri, was elected Sultan by the Mamelukes. Egypt was in a bad condition. There was treachery everywhere, and Tuman faced a very difficult task. Selim made overtures for peace, but they were rejected, as the Mamelukes still believed that they could conquer the Turks. Tuman had a great deal of trouble in gathering men and raising money for their pay. The Arab-Egyptians were forcibly drafted. Criminals, both petty and hardened, even murderers, were pardoned on condition that they join the army. There was none too much harmony in the army, for the prestige of the Mamelukes had suffered greatly in the eyes of the Beduins and fellahin. In the absence of Kansuh the Beduins attempted to plunder the peasantry and had to be restrained by soldiers. Morale was further weakened by the continued lack of pay and supplies; Tuman's men had had no ration of meat for six months. Some of the Mameluke recruits from Circassia had occasioned a near revolt. Although taxes were burdensome on the fellahin, the treasury was empty.⁶⁵

With all these difficulties, Tuman Bay was exerting every effort to provide arms, arrows, and horses, to cast cannon, to raise mercenary troops from the neighboring lands in North Africa and from the Beduins, and to make infantry soldiers of the slaves whom he considered fit to serve in the army. He made liberal promises to any possible ally. And he tried to stir up an enemy in the rear of Selim. Probably late in the fall of 1516 envoys were sent to Ismail, Shah of the Persians, to persuade him to attack Aleppo, which at the time of the embassy had a rather small garrison, and to invade Asia Minor, in order to compel Selim to desist from an assault on Egypt. It was Tuman's plan then to cut off the Turkish supply line and attack the Ottomans when they were weakened. Selim, however, forestalled this plan by fast action.⁶⁶

Meanwhile, Selim had rested his men and received reinforcements. Not until the middle of December did the Sultan's army leave Damascus, and it was early in January when the Turks started crossing the desert. The march to Egypt took thirteen days, and although the Ottomans had suffered much from losses of camels and horses in the snows of the Syrian mountains, from the difficult trek across the desert, and from guerilla warfare of the Beduins all through Palestine and down into Egypt, they were in far better condition than their enemies, the Mamelukes. There seems to have been no fighting in the fall and very little in the early winter. Skirmishes with the Beduins south of Syria by Turkish garrisons in Palestine, a Turkish ambush of Egyptian invaders, a temporary reverse for the Turks at the hands of the townspeople of Gaza,

⁶⁵Rustem, *op. cit.*, 51; Ibn Iyas, *op. cit.*, 51, 54-58, 74-76, 82-86, 94-102; Paolo Giovio, *op. cit.*, I, 487.

⁶⁶Paolo Giovio, *Istorie*, I, 485-486.

and a revolt at Rama were the only events of any importance. And these were of such little significance that the Sultan was not present at any of them.⁶⁷

Tuman had been counting on proceeding to Syria the following spring for an attack on Selim, and was surprised by news of the march of the Turks on Egypt. The Mamelukes established a camp at Raidaniyyeh, a village near Cairo, and proceeded to fortify it. Here Tuman brought all his artillery.⁶⁸ Ditches were dug all along the highway and over the field, and in these ditches were sunk pointed sticks to impale the horses of the Turks. The Mameluke strategy was to shoot down the enemy with the guns before they came into range of darts. Everything was well planned, and the Mamelukes expected success.

On January 23, 1517, the Turks marched alongside the enemy's camp. Selim did not deliver a frontal attack, because two Mameluke deserters had revealed to him that the camp had a concealed ditch to trip the horses and that the bulk of the cannon was arranged there. For some time the battle was exclusively an artillery duel, while the ranks approached each other. Then the Mameluke and Beduin horsemen attacked the Turkish wings, and the fighting became general. In the artillery battle, most of the Egyptian gunners were killed and many of their pieces were hit and destroyed by the accurate gunnery of the Turks. The Mameluke guns were rusty and antiquated, and either would not fire or would burst and do more damage to their own crews than to the Turks. What few balls did leave the muzzles had little effect, except on the Turkish cavalry, for the elevation of the cannon was too high. The Turkish artillery was superior to that of the Mamelukes because Selim's gunners were highly skilled mercenaries from Italy, and the gunpowder was prepared by a number of Jews who were experts in powder manufacture. These Jews, incidentally, had been given refuge by the Sultan when they were expelled from Spain.

The battle was hard fought, but finally Tuman Bay recalled his men and retired to Cairo. The Turks took the remaining artillery and the camp of the enemy and pursued them until very late. Then they returned to Raidaniyyeh, where they remained four days. After that, compelled to get water, they moved camp to Abu Kebir on the plain between Old Cairo and Bulaq, a suburb on the Nile, northwest of Cairo.⁶⁹

At Cairo, Tuman fortified the gates of the city and called on the

⁶⁷Jansky, *op. cit.*, 237-240; P. Giovio, *op. cit.*, I, 485-486, 492-493; Ibn Iyas, *op. cit.*, 102; Cambini, *op. cit.*, 149a; Hammer, *op. cit.*, II, 494-495.

⁶⁸Both *bombarde* and *spingarde*, most of them made of iron (Cambini, *op. cit.*, 149b). Although it is widely believed, on the authority of writers of the eighteenth century, that the Mamelukes possessed no cannon, and that Tuman and his soldiers thought it unfair of the Turks to use this type of weapon, there is proof (from contemporaries and near contemporaries, such as Cambini, Ibn Iyas, Paolo Giovio, the anonymous contemporary in Ramusio, Rustem, Leunclavius, Priulli, and Sanuto) that as far back as 1506 the Mamelukes possessed artillery. Even the Arabs of Oman used a number of cannon against the Portuguese in 1507 (Albuquerque, *Commentaries*, II, 67).

⁶⁹Leunclavius, *op. cit.*, 722, 723; P. Giovio, *Istorie*, I, 494-498; Rustem, *op. cit.*, 51; P. Giovio, *Informatione*, 213a; Tulun, *Chronik*, 125.

Egyptians to defend themselves. The Mamelukes were instructed to fortify themselves in the city and fight from street to street and house to house. More than six thousand black slaves were freed and armed. Many of the richest inhabitants of Cairo, knowing that the town would suffer a siege, and knowing also that by Moslem law a town taken by storm was open for whatever plunder the victors might choose, believed that they stood to lose less if they remained loyal to the Mamelukes. The Mamelukes dug ditches and laid beams across the streets and put stakes in hidden pits, into which they hoped the Turks' horses might fall. In the narrow streets where artillery could not be brought, Tuman stationed soldiers. The garrison of the citadel was brought to full strength. All strategic places of Cairo were prepared for the defense, the streets were barred, and even the women prepared to fight in a final desperate struggle.

On January 27 Selim attacked Cairo. The battle which resulted was broken up by the Turks' discharging their culverins and falconets on the enemy. The hidden ditches served their purpose very well, for they delayed the Turks, some of whom were impaled on the stakes. Even women and children hurled stones, tiles, and rocks at the invaders. In order to advance, the Turks were forced to shoot down with their harquebuses all whom they saw at windows, and to break down doors with their cannon. Fighting went on even in the homes of the Cairenes. The streets and spaces between houses were piled high with the bodies of the dead. For three days and nights the fighting continued. It has been said that Selim ordered the buildings set on fire because he feared the battle was going against him. At any rate, some buildings were afire. Finally, on January 30, 1517, defeated by thirst, weariness, and wounds inflicted by the artillery, most of the Mamelukes surrendered at the terms of the Turks. Some of the captives were butchered, while others were embarked on river craft and sent down the Nile to Alexandria.⁷⁰

Aleppo and Damascus had surrendered, and hence had been protected under Moslem law from serious plunder, but Cairo had been taken by storm. The soldiers, furthermore, had been inflamed by the opposition of the townspeople, and ran wild. A half year's strict discipline was relaxed in acts of avarice and cruelty. In the Mosque of Nafissa the Turks found 500,000 ducats, besides jewels and stones of inestimable value, silver lamps, chains, and carpets. Much of the description of plunder must be discounted, however, for the districts of Cairo must have been subdued one by one, and the observation of pillage was undoubtedly made by those living in an already conquered ward who ventured forth into the region of hostilities in another and mistook the fighting for plundering. This theory seems to be supported by the fact that the fighting lasted three

⁷⁰Cambini, *op. cit.*, 149b; P. Giovio, *Istorie*, I, 498-500; Leunclavius, *op. cit.*, 718, 750; Ramusio, *op. cit.*, 134; P. Giovio, *Informazione*, 214a; Ibn Iyas, *op. cit.*, 115-119; Leunclavius, *Annales*, 72, 729; Tulun, *op. cit.*, 124; Edhem, *op. cit.*, 19.

days, and also by the great variance of authorities in dating Selim's entry, surely an important event.⁷¹

FINAL STEPS IN THE TURKISH CONQUEST OF THE MAMELUKE EMPIRE

Tuman Bay escaped from Cairo into the region of Segesta, lying toward Cyrenaica, where he was joined by a band of Mamelukes from Alexandria. The Arabs in this northwestern part of Egypt promised the fugitive Sultan their aid, in return for being granted exemption from taxes for three years.⁷² Also, some Egyptians from Cairo whose houses had been sacked and families dishonored by the Turks promised to give Tuman Bay aid if he would attack Cairo. But while Tuman proceeded to make plans to attack the capital of Egypt, Selim became informed of this and decided to send an envoy to the Mameluke in an effort to persuade him to put down his arms, forget the old injuries, and resolve to continue under the conqueror. The embassy included many Turks prominent in law and religion and some Egyptians of eminence. They were to offer Tuman the regency of Egypt and rewards. Before they had gone far into the region of Segesta, however, they were encountered by a band of Mamelukes, who granted them no hearing but cut them to pieces with barbarous cruelty. These murderers were acting on their own, but there is no account extant of any apology or regrets by Tuman to Selim.⁷³ The news of this butchery made Selim resolve to complete the destruction of the Mamelukes. He made provision for victuals for the army and built a bridge of boats over the Nile, in preparation for leading his army against Tuman. The Mameluke leader, learning of Selim's activities, decided to attack the Turks by surprise. Tuman was so inferior in numbers and supplies that he knew he could not withstand an open attack. After consulting with his Mamelukes, he issued forth early one morning from Segesta, with four thousand horsemen and twice as many Arabs and Beduins. They marched a day and a night until they arrived at the Nile, east of Damanhur,⁷⁴ where they caught the Turks by surprise. Tuman had considerable success at first, but the battle ended in a complete rout of the Mamelukes. Tuman Bay was captured and brought to Cairo, while the last resisting Mamelukes were killed.⁷⁵ Selim might have let Tuman live, except that disorders continued because the Beduins and townspeople believed their former ruler was not in captivity. To show the Egyptians that the Turks were now in control of the land, Selim had Tuman dressed in a worn-out robe, with

⁷¹Blaise de Vigenère, *Illustrations*, 163; John Leo, *History*, III, 878. Leunclavius (*Annales*, 72, and *Hist. Musul.*, 749) gives 4 Muharram, 923; Ibn Iyas (*op. cit.*, 113) gives the last week of 922; Rustem (*op. cit.*, 53) says Selim entered the battle on Muharram 7; Halil Edhem (*op. cit.*, 19-20) gives 23 Muharram, 923, or February 15, 1517.

⁷²Hammer, *op. cit.*, II, 499.

⁷³Edhem, *op. cit.*, 20-21; Giovio, *Istorie*, I, 507-508; Tulun, *op. cit.*, 123.

⁷⁴In the Delta south of Alexandria (Tulun, *op. cit.*, 123).

⁷⁵P. Giovio, *Istorie*, I, 508-512; Cambini, *op. cit.*, 150b; Ramusio, *op. cit.*, 137.

his hands tied behind his shoulders, as assassins and malefactors were treated in Turkey, and had him paraded about in all the principal squares of the city. At last, on April 13, 1517, Tuman was hanged at the gate of Bab ez-Zuwaila. The remaining officers of the Mamelukes, together with their soldiers, met the same fate as Tuman.⁷⁶

Every vestige of opposition in the Mameluke Empire had now collapsed. Selim, therefore, could consolidate his authority in the whole land of Egypt, as he had done in Syria. The Alexandrians, after the battle of Cairo, had chased away their Mameluke garrison, and there was no city between the Nile and Judea that did not render obedience to the Turks. Even the petty kings of Africa who had been accustomed to pay tribute to the Mamelukes sent ambassadors to Selim pledging loyalty.⁷⁷

It is popularly supposed that Selim, on conquering the Mamelukes, forced the Caliph to relinquish the right to his office and assumed the dignity himself. Although the Caliph had once been regarded as the successor to the Prophet of God, Mohammed, this attitude had long ago changed. The Caliph under the Mamelukes was a mere figure-head, who served to give the form of divine blessing on the ruler and to add *éclat* to the government. So far as we know today, no contemporary of Selim mentioned such a cession, much less a claim, by Selim to the caliphate. Though it is true that Fabricius and Rosinus, in the late seventeenth century, state that Selim forced the Caliph to abdicate, they do not assert that Selim made claim to the office. In fact, they say that the caliphate after that time existed not even in name. The earliest account of a cession by the Caliph to Selim occurred in 1774. Therefore, it seems unlikely that Selim made any claim to the caliphate, or that it was ever ceded to him.⁷⁸ Selim and the Turkish emperors after him did not need what after all was a hollow dignity and what had lately not been very greatly respected.

Selim quickly assumed the prerogatives of his new dignity as head of what had been the Mameluke Empire. For one thing, he promptly collected the tribute which Cyprus had been obliged to pay the Empire, and, what is more, his accountants discovered that the Venetian government was five years behind in its payments. On June 14, 1517, the Ottoman demanded that Cyprus pay its debt, and by the end of the month as much as could be raised was paid him, with the delicate apology that the regrettable delay had occurred because the Cypriote government had been unable to find quickly enough a suitable messenger for his Exalted Highness.⁷⁹

⁷⁶ Hammer, *op. cit.*, II, 507; P. Giovio, *op. cit.*, I, 512; Leunclavius, *Annales*, 73; Edhem, *op. cit.*, 23; P. Giovio, *Informatione*, 214b; Tulun, *op. cit.*, 123.

⁷⁷ Cambini, *op. cit.*, 150a, 151; Giovio, *Informatione*, 214a; Giovio, *Istorie*, I, 513-514.

⁷⁸ Arnold, *The Caliphate*, 143-144; Lammens, *op. cit.*, 54; Nallino, *Notes sur le Califat*, 16 and *passim*; Leunclavius, *Hist. Musul.*, 835-836; Georgius Fabricius and Joannes Rosinus, *Chronicon Saracenicum et Turcicum*, Sub Anno 1519.

⁷⁹ Sanuto, *op. cit.*, XXIV, 650-651; Tulun, *op. cit.*, 124; P. Giovio, *Istorie*, I, 527.

Some of the culture of old Egypt Selim decided to import into Turkey, and for that purpose he rather heartlessly commanded that five hundred of the richest and most prominent Egyptian families be sent to Constantinople. Some of the Mamelukes, together with their wives and children, were also sent to this capital city. Many of the monuments of art were taken by the Turks and sent along with this human cargo. For example, the palace at Cairo was stripped of its porphyry and serpentine, the mosques were deprived of their precious stones, and marbles of wondrous beauty were torn from their fastenings. All these were sent down the Nile to Alexandria, where they were stowed on the Turkish ships and conveyed to the Bosphorus.⁸⁰

Before leaving Egypt, Selim appointed Khair Bey as governor of Egypt, much to the chagrin of Yunus Pasha, the able Turkish general.⁸¹

TROUBLE IN SYRIA

On October 9, 1517, Selim arrived at Damascus with his army of 25,000 men. Al-Ghazali had already been given the governorship of the district from Amman to Jerusalem.⁸² At Damascus, Selim learned that the forces of Ismail, which in the spring had threatened the Turks, had been dissuaded by the melting snows from entering Syria and had been called off to a war in the Shah's own provinces of Khorasan and Tartary. This war was so serious that the Shah had been forced to employ all his available soldiers in it. Selim very likely had paid the Tartars in the plains between the Don and Volga rivers to make war on Ismail and on the Iberians, who were Ismail's subjects, in order to keep off his dangerous enemy. It is not quite certain, however, that the complete success of the Turks in avoiding a conflict with the Persians, from August, 1516, to the fall of 1517, was due to the difficulties which Selim caused the Persians, for Paolo Giovio, the Bishop of Nocera, who traveled in the Levant a few years after these events, said that the Persian army was dangerously large only at home on defense, inasmuch as many of the soldiers did not show up for foreign service. Giovio relates also that Ismail had been forced to levy such heavy taxes that the Persians were somewhat alienated from their ruler.⁸³

In Syria there was enough trouble to engage Selim for some time. Commerce was lessened to some extent by the fears of many merchants that they too might be sent off to Constantinople, just as the Egyptians had been, and they therefore hid themselves in the mountains. One Beneanes, a Beduin chief in el-Bekaa, was creating difficulties, so that

⁸⁰Cambini, *op. cit.*, 151b; Giovio, *Istorie*, I, 516; Sanuto, *op. cit.*, XXIV, 599-600.

⁸¹P. Giovio, *op. cit.*, I, 527; Sanuto, *op. cit.*, XXV, 144.

⁸²Sanuto, *op. cit.*, XXV, Letter of Fantin Michiel, Cyprus, Oct. 24, 1517; Edhem, *op. cit.*, 26-27.

⁸³P. Giovio, *Istorie*, I, 530.

Selim had to march out in search of him on January 10, 1518. The Beduins were so expert in the mountains that Beneanes with all his men escaped the forces of the Emperor and even defeated the Turks. Beneanes then combined his forces with those of another chieftain, Bensad, and their joint forces, amounting to 45,000 to 60,000 men, it is claimed, withstood even the Turkish harquebusiers. Selim returned to Damascus, while Turkish officers forced Beneanes from his land near Saida and Safed. Then Selim once more appointed a governor over these places.⁸⁴ Although the Beduins were by no means tamed, Selim could not wait, because he had to make extensive preparations all over the Empire to fight Ismail.⁸⁵ The Beduins were left in independence, even between Beirut and Damascus, cutting off roads and slaying every Turk that fell into their hands. As al-Ghazali had been governor of Damascus under the Mamelukes, Selim presumed that he might be able gradually to subdue the Beduins. The Sultan accordingly appointed him governor over all southern Syria and Palestine, from Damascus to Jerusalem, Amman, and Gaza. Selim then arranged the financial system of Syria. Abu-l-Fasl, the former *cadi* (judge) of Yenishahr, and the son of the historian Edris, was of so great aid in this task that he was granted the sanjaks of Homs, Hamah, and Tripoli. Abu-l-Fasl's assistants, Nuh Chelebi and Abd-ul-Kerim Chelebi, were given the sanjaks of Damascus and Aleppo, respectively. Selim went from Damascus to Aleppo, where he arrived March 12, 1518.⁸⁶

At Aleppo, Selim learned that Pope Leo was stirring up the kings of Europe against him, so important had the huge Turkish Empire become.⁸⁷ Since the Shah of Persia had congratulated Selim on the conquest of the Mameluke Empire,⁸⁸ there was nothing to fear from the East. Establishing the southernmost boundary of the province of Syria at Gaza, Selim made haste to appoint one Kansuh as-Sufi governor of Tripoli, and Ras Medi of Amman, and Maledin of the district from Aleppo up to Dhu-l-Kadr. Then Selim left Syria, never to return.⁸⁹

On Selim's return to Constantinople, he found the finances so drained as a result of the war that he was obliged to stay there a whole year in order to give the *defterdar*, or superintendent of the finances, time to gather the dues from the vassals, the revenues of the customs, and the annual tax paid by all the Christians and Jews who were subjects of the Empire.⁹⁰

⁸⁴Sanuto, *op. cit.*, XXV, 118-119, 381-382, 473-480, and Letters of Vincenzo Capelo, Famagosta, Jan. 26, 1518, in *ibid.*

⁸⁵Sanuto, *op. cit.*, XXV, 333, where it is said that the timariotes of Syria and Egypt had to report for service against Ismail.

⁸⁶Sanuto, *op. cit.*, XXV, 404; Hammer, *op. cit.*, II, 525.

⁸⁷P. Giovio, *Istorie*, I, 531.

⁸⁸Hammer, *op. cit.*, II, 526; Sanuto, *op. cit.*, XXV, 486-487.

⁸⁹Sanuto, *op. cit.*, XXV, 486-487.

⁹⁰Mignot, *op. cit.*, 282; Tischendorf, *op. cit.*, 43-44.

CHAPTER III

THE ARAB LANDS FROM 1517 TO 1574

THE MOST ADVANCED part of the Arab world had been conquered by Selim. But this was not a conquest of the Arabs, for although some Arabs did take part in the battles, they, as a mass, were not active or very much interested. For centuries they had been under the rule of foreigners, and it was not to be expected that they would resent a mere change of masters. Nevertheless, the position of the Arabs of the Mameluke Empire had changed, even if they did not realize it; and it was to change more, as the Arabs now merely lived in the provinces of a great and powerful empire whose culture and language were not Arabic, although both were deeply affected by the Arabs. Furthermore, the Ottoman Empire was much too large to occupy itself with its Arab provinces to a very great extent, especially in the sixteenth century when the emperors had to fight Austria, Spain, Venice, and other countries.

The Mamelukes, after all, had practically been brought up in Syria and Egypt, and consequently they had some interest in the appearance and reputation of their home. The Turks, however, were sent for a term, none too long to familiarize themselves with the conditions of their charges, and very frequently, after a brief sojourn amongst the Arabs, they returned to Turkey for the rest of their lives, or were assigned to some other posts remote from the Arabs, or at best in other parts of the Arab lands where conditions were quite different from those with which they were familiar. Since the stay of the Turkish officials with the Arabs was never very long, there was little to be gained, it seemed to them, even by learning Arabic. It is likely that communication with the minor officials of the government, who must have been Arabs in order that the country could be administered at all, was carried on by means of interpreters, unless the Arabs happened to know Turkish.

As is true in the case of newly arrived foreigners in America, the Turks naturally tended to withdraw into their own clique, for it seemed that they had very little in common with the Arabs. Assimilation could not take place under such conditions. It was much more likely that alienation from the citizens, and even contempt for them, would result. In case of a dispute between an Arab and a Turk, the latter's countrymen who controlled the government might quite easily favor the Turk. Furthermore, the fact that the Arabs were not allowed to carry arms rendered it easy for the Turk to win an argument. When one group does

not fraternize with another, or feels that it is superior to the other in mind or strength, a dangerous state of affairs may result. This is what gradually developed in the Arab lands under the Turks. If there had been some representative system, the Arabs might not have come to feel that Turkish rule was tyranny.

THE OTTOMAN GOVERNMENT

According to the principles of the Moslem state, the Sultan, or Padi-shah, was the absolute ruler of the whole Empire, and was bound only by religious tenets.¹ Of course, in order to manage his far-flung dominions, the Sultan had to ask the advice of men capable to give him counsel in matters of peace and war, administration, and justice. These men comprised the Sultan's cabinet, or Divan, which consisted of usually four counselors,² who bore the title pasha³ and were well paid for their work. In the course of the sixteenth century, the head, or Grand Vizier, rose to a position similar to that of Prime Minister or Chancellor. Much of his influence, however, was lost because of the uncertainty of his tenure.⁴ The task of accounting for the receipts and expenditures of the Imperial government was entrusted to the two defterdars, or treasurers, of Rumelia and Anatolia, aided in the Arab lands by one of lower rank residing at Aleppo. The bookkeepers, or rusnamehjis, formed the means of communication between the defterdars and the khojagans, or chiefs, of the twenty-five bureaus of the government.⁵

The administration of the state was organized in a military fashion and rested on a system resembling feudalism, with the difference that in the Turkish plan homage was not pledged, nor could the sons of the spahis or vassals inherit their fathers' holdings, except under certain conditions.⁶ The fief-holders were of necessity Moslems, and collected the revenues and exercised seignorial jurisdiction in their estates. The latter were of three classes: timars, whose yearly revenue was under 20,000 aspers; ziamets, with an income ranging from 20,000 to 100,000 aspers; and khasses, or estates whose income exceeded 100,000 aspers. In addition to his administrative duties, the fief-holder had to appear in person, on horseback, when summoned, and had to bring horsemen according to his revenue.⁷

Of course, not all the land of the empire was parceled out to fief-holders, but was in three categories: tithe, tribute, and state lands. The first, or tithe lands, were held by Moslems, on condition of paying up to

¹Aranda, *Verdadera Informacion*, 101b-102a; Sax, *Geschichte*, 26.

²Viziers; that is, ministers of state.

³A very high official.

⁴Lybyer, *The Government of the Ottoman Empire*, 163-165.

⁵Lybyer, *op. cit.*, 167-168; Blaise de Vigenère, *Illustrations*, 109; cf. L. B. da Zara, *Dell' Origine*, 79a.

⁶Sax, *op. cit.*, 26.

⁷Lybyer, *op. cit.*, 100-101.

one-tenth of the produce to the state; while the tribute lands were granted to Christians, on the payment by them of either a fixed sum or a share of the produce, ranging from one-tenth to one-half. The state lands yielded revenue either to the Sultan (crown lands) or to pious and charitable foundations, or else they were granted in fief to the spahis, who, as has been said, in return gave military service on horseback. All the land in the Turkish domains in Europe, and much of that in Asia Minor, was state land. Syria and Egypt, and later Mesopotamia (Iraq), were mainly tribute lands, because of older arrangements. Arabia and Basra, as the oldest Arabian possessions, were almost entirely tithe lands. But parts of the desert of Arabia were only nominally under direct administration, and in very slight obedience. The tribes in these regions were controlled by chieftains and might or might not submit to taxation, as they pleased.⁸

The Arab lands conquered by Selim and his successor, Suleiman, were not administered from Constantinople, as is evident from a study of the bureaus and the separate listings of the revenues from Syria, Egypt, and Mesopotamia in contemporary estimates.⁹ Just as the whole empire was divided, so the Arab lands were divided into provinces, governed by beylerbeys, each of whom had several sanjak-beys¹⁰ under him, varying in number. In his province, each beylerbey had a staff for the administration of the province, including a mufti (high judge), a reis effendi (recording secretary), and a defterdar (treasurer), with a considerable body of clerks who advised him, recorded his decisions, attended to the revenues from the estates which were assigned to the support of his household, and kept account of the sanjak-beys in his dominion. Each sanjak-bey, in turn, had his group of assistants, with similar duties on a lesser scale.¹¹

Local government and the command of the spahis were assigned to officers appointed by the Sultan and called subashis (captains), who in time of peace governed the towns, and were supplied with enough Janisaries and Azabs (irregular infantry) to police the locality. Over these were alai beys, or colonels, who in turn were subordinate to the sanjak-beys. The latter governed important cities and the surrounding districts. Fiefs were assigned to provide for incomes which were proportionate to the officer's importance. All these local officers had sufficient lieutenants, treasurers, bookkeepers, and clerks to perform their duties.¹² In time of war each subashi had to furnish eight or ten horsemen,¹³ and each spahi was obliged to bring along a number of horsemen proportionate to his income.¹⁴

⁸Lybyer, *op. cit.*, 30, 31.

⁹Lybyer, *op. cit.*, 173.

¹⁰Vassals, or governors of sanjaks; that is, districts.

¹¹Creasy, *History*, 318-319; Sax, *op. cit.*, 24.

¹²Lybyer, *op. cit.*, 103.

¹³Blaise de Vigenère, *op. cit.*, 101.

¹⁴Lybyer, *op. cit.*, 101.

All the people in the Empire, Christians, Moslems, and Jews, were under one and the same system of judgment, and justice was ordered to be administered impartially.¹⁵ The heads of the judiciary were the two kaziaskers of Rumelia and Anatolia, who received appeals from the courts of the subashis, sanjak-beys, and beylerbeys, the one for Europe and the other in Asia and Africa, and who appointed all the judges, subject to the approval of the pashas. The local judges, called cadis in the larger cities and naibs (deputies) in the villages,¹⁶ cooperated with the subashi of the city, who brought to court the parties concerned and executed the sentences of the judges. Justice was enforced by muhtesibs, or lieutenants of police, who were furnished soldiers and attendants to patrol the streets and inflict penalties on those caught *flagrante delicto*.¹⁷ When the parties were brought to court, each had to plead for himself and bring his witnesses or show some writ instead. Justice was then quickly done, so that peace was prevalent, even in the eyes of Europeans. In fact, if the subashi could not find the one accused of a crime, he would charge the neighbors with finding the culprit, and if they made no effort to do so, they would be punished.¹⁸ One reason for the speed of the trials was that no records were kept.¹⁹

Appeals were taken not to the kaziaskers first, but to the lesser mallas, who were judges of high standing in the ten cities of second rank, of which those in or near the Arab lands were Marash, Aintab, and Diyarbekir, and later Baghdad. Appeals could also be taken to the greater mallas, who included the kaziaskers, and judges of Mecca, Medina, Cairo, Damascus, Jerusalem, and Aleppo. From the higher judges, appeals went finally to the Grand Vizier. In addition to their court work the judges, who were salaried, attended to all the notarial work of the Empire.²⁰

The place of professional lawyers, a class that was entirely lacking in the Empire, was taken by the muftis, who were counselors and jurists, rather than judges. Appointed for life as associates to the judges of important cities, about two hundred in all, or as counselors to the beylerbeys or sanjak-beys, they lived in retirement and possessed no initiative of action. Any one—judge, official, or private citizen—could submit a question of law and receive a fetva, or decision, from a mufti, which ordinarily settled the case. The muftis, ranking after judges, were appointed by the head mufti, or Sheikh-ul-Islam, residing in Constantinople, who outranked all officials but the Grand Vizier. The influence of the Sheikh ul-Islam was great, because he expounded the Sacred Law, and thus to an extent controlled the Sultan.²¹

¹⁵Cambini, *Dell' Origine*, 39b.

¹⁶The naibs served also as lesser judges, and received no salaries, but lived on fees.

¹⁷Lybyer, *op. cit.*, 217-220.

¹⁸Chesneau, *Le Voyage*, 47.

¹⁹*Breve Relazione . . . Amurat II* (1575), 317.

²⁰Lybyer, *op. cit.*, 217-219.

²¹Lybyer, *op. cit.*, 207-209.

SYRIA AND EGYPT UNDER SELIM

As parts of the Ottoman Empire, one of the obligations of Syria and Egypt was to furnish troops and supplies when there was need. They did this, for example, when the Turks took Rhodes in 1522.²² The provinces also contributed aid to the Empire at Lepanto in 1571, when Turkey was at war with a large part of Europe, and frequently Syria and Egypt gave forces for use against the Persians.²³ It should be remarked that so far as is known the Arabs furnished soldiers only in wars that definitely concerned them. Imperial battles with Persia directly concerned Syria and indirectly Egypt, for the former province might be attacked or invaded by the Shah's forces, and both Syria and Egypt stood to lose much by Persia's interference with commerce. The aid sent the Empire at Rhodes in 1522, to Malta in 1565, to Lepanto in 1571, and to Cyprus in 1573,²⁴ was also justified, because the Knights of St. John who ruled Rhodes had interfered with the communications between Constantinople and Alexandria, and had pillaged the coasts of Egypt and Syria;²⁵ and after they had been driven out from the island of Rhodes they constantly made raids from Malta on Arab boats. Besides, the continual raids of pirates on the coasts of Syria and Egypt made the maintenance of a fleet absolutely necessary.²⁶

Syria and Egypt had to pay what is usually called "tribute," but what in reality was taxes. In return for the federal tax which they paid,²⁷ the provinces of course received protection. The small garrisons that the Turks maintained, moreover, did not consume as much money as the Mameluke garrisons had, for the pay of the Janissaries was distinctly under that of the Mamelukes.²⁸ The Turks, besides, kept a large fleet in the Red Sea, and in the Mediterranean the imperial fleet with contingents from Egypt²⁹ was ready to defend the sultan's provinces against all enemies, either Spain or Portugal or the Knights of St. John, in accordance with the usual practice of maintaining a fleet and army from fear or knowledge of what might take place. Although no attacks were made on Egypt, one was made on Syria in 1520.

At the commencement of Turkish rule, hard times were prevalent in Syria and Egypt.³⁰ Disorders in Mesopotamia prevented the silk of

²²Rustem, *Chronik*, 63; Lonicer, *Chronicorum Turcicorum* . . . , I, 361, 363; P. Giovio, *Informations*, 2163.

²³Natalis, *Historiae Sui Temporis*, 60; Rustem, *op. cit.*, 181, 182.

²⁴Martino, *The True Report of all the Success of Famagusta*, 152.

²⁵Haji Khalfeh, *The History of the Maritime Wars of the Turks*, 24; J. Fontanus, *Guerra di Rhodi*, 345b; Lonicer, *op. cit.*, II, 354-355; Barbarigo, *Relazione*, 17; Busbecq, *Leyatationis Turcicae Epistolae Quatuor*, 299-300.

²⁶Lane-Poole, *Story of the Barbary Corsairs*, 100-101; Petrus Justinianus, *Historia*, 475; Anonymous, *Istorie dei suoi tempi*, 165b; Matteo Zane, *Relazione*, 402.

²⁷This tax resembled somewhat that paid by Alaska, except that in the latter case individuals and not a government pay the tax.

²⁸The Mamelukes had obtained six to ten ashrafi (ducats) per month, while the Janissaries received only from one to eight ducats per month. Moreover, the Janissaries were not paid monthly, but only quarterly. Smith, *Epistolae Quatuor*, 88.

²⁹Petrus Justinianus, *op. cit.*, 435.

³⁰Sanuto, *Diarii*, XXVI, 343.

Persia from reaching Syria, and in Syria the inhabitants were enduring hardships because of the decline of trade and industry resulting from the late war. Throughout the years 1519 and 1520 almost no spices came into Egypt and Syria.³¹ But compared with Europe, Syria and Egypt were still rich, fabulously so it seemed to Europeans. The King of France himself entertained extravagant notions of the wealth of the Levant, for he sent a fleet of some fifteen ships to sack Beirut, Tripoli, and Alexandria. This piratical expedition did not get beyond Beirut, however, for there it was stopped by the Druzes and Arabs. The inhabitants of Syria waited until the French had bombarded the town and landed, on October 9, 1520, and then they fought the invaders so fiercely that the French commander and some four hundred others were killed. The remainder retired in confusion and sailed back to France.³² More than two centuries were to elapse before any other European power dared to invade Syria, so well had the lesson been taught that Syrians did not care for the rule of the French, or Franks.

THE REVOLT OF AL-GHAZALI

To the economic troubles of Syria was added the attempt of the governor of the South, al-Ghazali, to drive out the Turks and re-establish the old Mameluke Empire. Al-Ghazali was governor of all the southern districts, whose capital was at Damascus, and suspicion had existed among the Turks for some time that he was not loyal,³³ but not until the death of Selim in 1521 did al-Ghazali throw off his mask and try to restore the old Mameluke Empire.³⁴ He claimed then that the death of Selim had absolved him from his oath of loyalty, since it was only to the late monarch that he had promised obedience. He had long been preparing for the revolt, however, by making himself agreeable to the Beduins and the countrymen. Indeed, he must have been a rather consummate demagogue, for he was quite generally liked throughout Syria. Since he had been a member of the old Mameluke officialdom in Syria, it is probable that he claimed to be indignant at the hardships of the coinage situation and the unemployment, and that he blamed the Turks for the "hard times." That is quite tenable, for Ibn Iyas, the contemporary historian of the last days of the Mameluke government, whose history closes at 1524, did not realize the cause of the economic disaster that befell Egypt and Syria, but attributed the whole matter to exorbitant taxes. If, then, an intelligent contemporary historian could not discover the cause of the misery of the Empire, all the more reason exists for

³¹Sanuto, *op. cit.*, XXVII, 512-513; XXVIII, 113, 354-355, 502 and *passim*.

³²*Ibid.*, XXVIII, 206 and *passim*; XXIX, 427-428, 433-436.

³³*Ibid.*, XXVI, 343-344.

³⁴P. Giovio, *Istorie*, II, 3.

believing that the common man fell a victim to the skillful talk of al-Ghazali. At any rate, it is known that the people of Syria and Egypt were discontented with conditions, and since the objections to the rule of the Ottomans are not concrete,³⁵ it is probable that the Turkish Empire was getting the same blame for the straitened circumstances that Sultan Kansuh al-Ghuri had received.

Ghazali gathered about him all the Mamelukes he could hire, and successfully contrived to make himself popular with the Arabs and Druzes and to undermine the popularity of Selim. It was Ghazali's plan to secure the alliance of Khair Bey, governor of Egypt, and together with him to fight off the Turks at the passes of northern Syria. Furthermore, he tried to procure cannon, munitions, and arms, as well as ships, from Rhodes, but the Grand Master was too slow in getting the materials to him. Ghazali believed that the new Emperor, Suleiman, would be too occupied with the difficulties that usually ensued on the death of a Sultan in the Ottoman Empire to crush the rebels. The whole scheme fell through, however, for Khair Bey refused to jeopardize his position in Egypt, and, turning over the messenger of Ghazali to the Turkish commander in Cairo, Khair Bey had no more to do with the traitor. On October 31, 1520, Ghazali was proclaimed Sultan by the Syrians in Damascus. The next day his partisans cut to pieces the Turks in the town. Shortly after, the Druzes joined the traitor, and Tripoli and Beirut, the great trading town of Syria, fell into his hands. This was all the success the rebel had, for he was beaten off by Karaji Ahmed Pasha, the governor of Aleppo, when he tried to take that city by storm. The governor had not been able to go out to meet him because of the disposition of the townspeople to favor Ghazali. Two weeks later, however, reinforcements of forty thousand horsemen and eighteen cannon under Ferhad Pasha and Piri Pasha from nearby Cilicia, Caramania, and Rumelia, reached Aleppo, whereupon Ghazali retired from his ineffectual siege of the city and betook himself to Amman. Dislodged from that town by the Turks, he retreated to Damascus, where he fortified the city. When the Turks approached, Ghazali, thinking that his only chance lay in fighting on a field and not behind walls which the Turkish artillery could crush, marched to al-Mastabe, in the region of Kabun. There, in a six-hour battle, his army, outnumbered eight to one, was defeated and cut to pieces by Ferhad Pasha, in the late winter of 1520. Ghazali himself was killed in action.³⁶

The Turkish troops entered Damascus, and assumed control. Con-

³⁵Sanuto, *op. cit.*, XXVI, 150, 342, 425; XXVII, 512; XXIX, 104, 151, 283, 363, 508-509.
³⁶Giovio, *Informazione*, 215b; Cambini, *op. cit.*, 153a, 153b, 177; Giovio, *Istorie*, II, 3; Sanuto, *op. cit.*, XXIX, 520-522, 576, 644; XXX, 34, 77-78, 137; Lonicer, *op. cit.*, 65; Rasmussen, *Annales Islamismi*, 88.

trary to the statement of Lammens,³⁷ they did not pillage the city, but were, for the most part, lodged outside it. The capitulations of Selim were renewed, the townspeople were forgiven, and especial efforts were made to see that commerce should not suffer.³⁸

Suleiman realized that something was wrong with the organization of Syria, and did his best to cure the difficulties. He assigned Damascus to a Turk, Ayas Pasha, who could presumably be trusted to remain faithful to his Emperor. Other Turks got the prefectures of Jerusalem, Gaza, and similar towns. Ferhad himself received the province of Tripoli, with the duty of maintaining surveillance over the sea, the mountain of the Nosairis, the Lebanon, and the highway from the sea to the interior.³⁹

THE GOVERNMENT OF SYRIA

Syria had not known a central and stable government since the rule of the Romans, except for a short time under the Moslem and Arab dynasty of the Ommaiyads.⁴⁰ Palestine was merely a geographical expression, for the land was a continuation of Syria and was closely connected to it.⁴¹ Under the Mamelukes, Syria had been divided into six districts: Damascus, Aleppo, Hamah, Tripoli, Safed, and Kerak,⁴² while one region, the Lebanon, had its own government.⁴³ Up to the time of the revolt, Syria had been divided into two provinces: from Damascus south, and from Damascus north to beyond Aleppo. Subsequently, three governors were to exist in Syria, at Damascus, Tripoli, and Aleppo.⁴⁴ The divided governments and the great distance of the governors from the surveillance of the central government, led them to obtain unlimited power, and caused many quarrels and wars between the pashas. But it should be remembered that the Turkish government was no worse than that of the Mamelukes which had preceded it. The only way of governing the country justly and safely would have been to make but one government of the whole region, and to have some sort of representative body of the Syrians at least to advise the governor. This, however, was unthought of in the Orient of the sixteenth century.

The feudal organization that characterized the Empire was already in existence in Syria under the Seljuk Turks. The Druzes in the South Lebanon and the Wadittaim, between Acre and Antioch,⁴⁵ in particular, were ruled by several feudal princely families, of which the oldest, the Tanouh, was declining in the sixteenth century, as the power of the

³⁷Lammens, *La Syrie*, II, 59.

³⁸Cambini, *op. cit.*, 153b.

³⁹Lammens, *op. cit.*, II, 59; Rasmussen, *op. cit.*, 88; Sanuto, *op. cit.*, XXX, 292.

⁴⁰Circa 650-750 A.D. Mounayer, *Le Régime de la Terre en Syrie*, xvii.

⁴¹Baudier, *Serrail*, 48.

⁴²Transjordania.

⁴³*Imprimerie Catholique*, 71.

⁴⁴A. Malipiero, *Relazione*, 89.

⁴⁵*Ibid.*, 90.

Ma'an increased. The Maronites of the Lebanon, a sect of Christian Syrians, also had adopted the feudal system and were in effect an armed nation with a hierarchy of warriors, emirs, and sheikhs, in reality feudal lords. The Lebanese were not governed directly by the Pasha of Tripoli, but by means of a Moslem muqaddam, who held control of tax collection in the region, and who in turn farmed out the collection of the taxes in the Christian regions to Christian collectors.⁴⁶

The Lebanon, with its difficult mountains and woods, became the refuge of those who opposed the Turkish government. Here refugees were well received by the emirs and chiefs. It was a serious mistake for the Turks to leave the Lebanese independent of Tripoli, the natural political and spiritual capital of the region.⁴⁷ The Druzes came in the sixteenth century to have a potential army of 25,000 well trained harquebusiers, and conceived a hatred for the Turks. Throughout the early part of the century, one of them, Fakhr ed-Din, advanced the cause of the Druzes, his family, and himself so much that some fifty years after his death one of his descendants almost took Syria from the Ottomans. The Lebanon, in fact, was the key to very much of Syria's trouble.⁴⁸

The Pasha of Damascus had the honor of conducting the pilgrim caravan to Mecca, had an income of 24,000 ducats, and a garrison of 3,197 soldiers. In time of war, 20,000 spahis could be raised. His dominion extended over three feudal princes and ten sanjaks, comprising all Palestine and the largest part of Phoenicia and the Lebanon, Jerusalem, Gaza, Safed, Nablus, Ajlun, Lejun, Kerak, Tadmor (Palmyra), Saïda, and Beirut.⁴⁹

Aleppo, in the latter part of the sixteenth century, was the largest city in all Syria and the center of the trade between Asia and Europe. Here resided a Pasha, who maintained a mint. The pashalic extended to the Euphrates and comprised all of north Syria except Aintab, which belonged to the pashalic of Marash. There were at various times between five and eleven sanjaks, of which several were Turcoman: Aleppo, Killis, Maarra, Asir, Adana,⁵⁰ Palis, Antioch, Sermein, Urfa, Manbij, and Madiq. In the pashalic were many Turcomans, Kurds, and Beduins.⁵¹

Tripoli, also, was the seat of a pashalic, including the sanjaks of Hamah, Homs, Salamieh, Jebellieh, and Latakia. In the Lebanon were some forty sanjaks held by Druzes. Although but 1,821 troops existed in the garrison, in time of war the pasha could raise 8,000 soldiers. Two-

⁴⁶Jouplain, *La Question du Liban*, 87-89.

⁴⁷Lammens, *op. cit.*, II, 69.

⁴⁸Malipiero, *Relazione*, 90; Jouplain, *op. cit.*, 87; Lammens, *op. cit.*, II, 66-67; Ristelhueber, *Traditions françaises au Liban*, 18-19.

⁴⁹Crichton, *History of Arabia*, II, 113; Evliya Efendi, *Narratives of Travel*, 104, 93; Pantaleão de Aveiro, *Itinerario*, 511; Jouplain, *op. cit.*, 87; Rocca, *Hystoria*, 150a; Belin, *Du Régime*, 274.

⁵⁰Until this was joined to another province.

⁵¹Anonymous, *Ex Politeia Regia, in Twrcici Imperii Status*, 286, 71; Teixeira, *Travels*, 115; Evliya Efendi, *op. cit.*, 100, 89, 94; Emo, *Relazione*, 104; Belin, *op. cit.*, 276-277; Hammer, *Staatsverwaltung*, II, 268.

thirds of the total revenue, or 200,000 ducats, was kept to pay the Janissaries of the citadel, the muftis, priests, chaushes, and clerks of the Divan, while 100,000 ducats were sent to Constantinople.⁵²

The Arabs were powerless under the Turks, just as they had been before under the Mameluke Sultans, and were not allowed to bear arms or serve in the army. Representation, of course, was unknown. Indeed, their highest and most influential class was very weak and consisted merely of scholars, called 'Ulema, or doctors of law, who did not practice law but rather had the management of the revenues of the mosques and charitable institutions. Generally, the 'Ulema were of ancient family, and descended either from other 'Ulema or from wealthy landed proprietors. The greatest of these families, the Bekris, Jouheris, and Safedis, lived in splendor, but not in the luxury which they had enjoyed under the Mamelukes.⁵³

DEPRESSION AND REVOLT IN EGYPT

The merchants and the 'Ulema, in Egypt as in the rest of the world at that time, showed little or no interest in the lot of the fellahin (peasants), who toiled through all ages to produce wealth for their masters.⁵⁴

In his crude way Selim had been kind to Egypt. To the Mamelukes remaining there and to their children, he gave an amnesty; and he did not destroy or injure, but rather maintained, the wakfs, or estates, belonging to pious, charitable, and educational institutions. Furthermore, he made allowances for orphans and the sick, and arranged for the military budget of the land. Insofar as he recognized them, he abolished unjust laws and heavy taxes. But his desire to make Constantinople the leading city in the world caused him to take along with him from Egypt five hundred artisans whose trades were unknown in Turkey, thus occasioning the ruin in Egypt of more than fifty industries.⁵⁵

Frequent outbreaks occurred, not only in Syria, but also in Egypt, for the existing Turkish regime in the latter place was also suffering the blame for disastrous economic conditions. Troops were rioting in Cairo and threatening the women. Khair Bey, the governor, was doing his best to remedy the difficulties, but there were too many to cope with. He treated the Venetian merchants fairly, but they had little business to transact, for the Portuguese ships in the Red Sea were "doing their bit" to starve out the Moslems. Cairo itself was declining in population, and houses were falling in. A strong contributing factor to the unrest in the new Turkish possessions was the coinage situation. The new coins struck

⁵²Hammer, *op. cit.*, 270; Lammens, II, *op. cit.*, 60; Jouplain, *op. cit.*, 84; Evliya Efendi, *op. cit.*, 93; Harborne, *Returne*, 67; Emo, *op. cit.*, 105.

⁵³Paton, *History of the Egyptian Revolution*, I, 77-78.

⁵⁴Lybyer, *op. cit.*, 33.

⁵⁵Djabarty, *Merveilles*, I, 48.

off, called "maidins," were used at face value by the Turks to purchase goods, but they in turn would receive back these coins at only forty per cent of their face value.⁵⁶

When Khair Bey died, in 1522, the Beduins joined with the Mamelukes in a rebellion, and Mustafa, who succeeded Khair Bey, did not possess sufficient ability to stamp out the uprising. The rebels even entered Cairo, but were fought off by the Turks. Ahmed was sent to Mustafa's aid, and succeeded in releasing the besieged governor.⁵⁷

Mustafa returned to Constantinople in October, 1523, and in his place Suleiman named Ahmed, a Greek who was originally a Christian and known as a very greedy man. Before the year was over, Ahmed was in revolt. On his arrival he had determined to get hold of all Egypt, the great distance of which from Constantinople he believed would dissuade Suleiman from taking measures to subdue him. Ahmed was encouraged principally by the disaffection of the populace toward the Turks, but since the populace was untrained and unmilitary, he sought out the leading men of Cairo, and the Beduins and all the Mamelukes, many of whom were veterans of al-Ghazali's revolt, and attempted to win them over. Also, he tried to come to terms with Ismail. To the Pope and the Grand Master, Ahmed promised that he would cause the Janissary garrison of Rhodes to surrender, if the Christians would send a fleet.⁵⁸ Only the outbreak of war between Charles V and the King of France prevented an attempt at carrying out this promise, for the Pope had sent a galley to investigate the possibilities.⁵⁹ While Ahmed was still waiting for a reply from Ismail, however, and when he had raised only a thousand Mamelukes, Suleiman got wind of the plot, through a Jewish merchant.⁶⁰ Because Ahmed had sent home to Constantinople all the best Janissaries and spahis,⁶¹ Suleiman believed the merchant, and immediately despatched two messengers with letters, one to the governor of Cappadocia with orders to advance by forced marches to Cairo to take Ahmed's place, and the other to Ahmed himself ordering him to assume the governorship of Cappadocia, whither he was to hurry as fast as possible, and then march against Ismail. The messengers arrived at Cairo with a few soldiers and the successor to Ahmed, and Ahmed informed the messengers that he would obey. The traitor, however, hurriedly forged two letters purporting to have come from Suleiman and countermanding the previous orders given the messengers. The forgeries were written so shrewdly that the messengers and the governor of Cappadocia believed

⁵⁶Sanuto, *op. cit.*, XXVI, 163-164; XXVII, 40-41, 510, 512-513; XXXIV, 381; XXXV, 40-42; and Letter of Lorenzo Orio, Buda, May 1, 1520.

⁵⁷Sanuto, *op. cit.*, XXXV, 43; Cambini, *op. cit.*, 180a.

⁵⁸Sanuto, *op. cit.*, XXXV, 273, 337; Cambini, *op. cit.*, 180a; Bocignol, *Epistola*, 2.

⁵⁹Chalcondyle, *Histoire Générale des Turcs*, 489-490.

⁶⁰Bocignol, *op. cit.*, 2-3.

⁶¹Sanuto, *op. cit.*, XXXVI, 99-100, 64.

they were genuine, and prepared to depart. But Ahmed did not wish to risk having his fraud discovered, and therefore had the governor of Cappadocia and his party ambushed.

Ahmed had previously written his brother, the governor of the Peloponnesus, asking him to revolt, but Suleiman in some way received the letter instead, and had the unfortunate brother executed. One Ayas was then sent off with five hundred men to cross the Hellespont and raise troops in Anatolia. Ayas managed to gather fifteen sanjak-beys with a few thousand foot soldiers, and they rushed off toward Cairo. Twenty-four ships left Constantinople for Egypt, and Hassan Pasha was despatched against the traitor. In Egypt, Ahmed reflected that no letter from his brother or from his friends had reached him, and he therefore realized that if he obeyed the Emperor's orders he would go to his death. It was for that reason that he had forged the two letters, and killed the messengers. The Janissaries whom he had already scattered about the country he now ordered killed. Then he ordered some officers slain, discharged the Turkish cadis, and tried in vain to take Alexandria. He had not been joined in his revolt, however, by the Arabs, and the whole matter was finally settled when a few of the conspirators learned of the fleet that was coming to attack them and became so terrified that, hoping for pardon from Suleiman, they assassinated Ahmed in his bath.⁶²

This outbreak of 1523 was followed shortly after by a revolt of the Mamelukes. Their plan was that their leader, Kansuh, should attack the citadel in Cairo, while they stormed the bazaars and slew the leading Ottomans. Before the plot matured, however, the conspirators were discovered and imprisoned. Another outbreak occurred when Janym Kashif, a Mameluke and a former emir of the Hajj and adherent of the plotters, assumed the title of Sultan and gathered two thousand rebels, while Kashif Khudaverdi and Inal, the kashif (inspector) of Gharbiyyah, a province in the western part of the Delta, collected a large number of men at Mahellet al-Kubra, also in the Delta. To obtain the support of the people, the rebels promised to lower the kharaj (taxes) by fifty per cent. Attempts by the rebels to secure aid from the Arab sheikhs were rendered futile by the skillful Pasha Kasim, who sent the Beduins friendly letters and gifts of clothes. Nevertheless, the insurgents succeeded in cutting off the roads and in plundering and killing merchants, pilgrims, and soldiers. Meanwhile the Pasha pacified the Arabs and despatched the Janissaries with a few cannon. They pursued the rebel Sultan beyond the Nile, to the province of Sharkiyyah, where the uprising had started, and there he was slain.⁶³

⁶²Bocignol, *op. cit.*, 3-5; Cambini, *op. cit.*, 180a; Rustem, *op. cit.*, 65; Marai, *Geschichte der Regenten in Egypten*, 442; Sanuto, XXXVI, 65, 99-100, 101, 154, 434.

⁶³Rustem, *op. cit.*, 67-68.

The uprisings that have been mentioned here are merely illustrative of the difficulties that were constantly occurring in Syria and Egypt under the Turkish governors, all of which convinced Suleiman that these lands had to be reorganized. The crude system that Selim had established had broken down.⁶⁴ In 1524, therefore, Suleiman sent his trusted friend and Grand Vizier, Ibrahim Pasha, to remedy the ills of those provinces. The Emperor must have had great confidence in Ibrahim, indeed, for the Grand Vizier was directed to make arrangements for the reorganization of Egypt and to return to the Turkish capital within the limited period of six months.⁶⁵

IBRAHIM PASHA IN SYRIA

Ibrahim's itinerary took him through Syria, where he created order in Aleppo and Damascus, still suffering from the revolt of al-Ghazali. Throughout Syria he beheaded many subashis and cadis for dishonesty, and changed the organization established by Selim, which had divided Syria into two parts, with Damascus as the point of division. Henceforth, Syria had three governors, each independent of the others, located at Aleppo, Damascus, and Tripoli, respectively.⁶⁶

THE REFORMS AND RULES OF IBRAHIM PASHA IN EGYPT⁶⁷

In Egypt, Ibrahim proceeded to lay a firm foundation for nearly four centuries of Turkish rule. He stayed three months in Cairo, and in that short time hanged the treacherous sheikhs of the tribes of the Beni Hawara and Beni Bakar, and obtained the allegiance of all the other tribes in Upper and Lower Egypt, even those close to Nubia. By means of criers, he summoned all oppressed Egyptians to make known their injuries. Those imprisoned only for debt were freed; orphans were provided for; and Ibrahim with his own money rebuilt a famous old mosque in Cairo. He restored the tax-registers according to the old rules of Kait Bey, Sultan of Egypt in the days of the country's great wealth. The Defterdar Hamrawi's estimate of eight hundred thousand ducats was accepted as the amount to be sent to Constantinople, after all expenses were met in Egypt, but there is evidence that this sum rarely was sent.⁶⁸

In the case of Egypt, indeed, it may be said that Suleiman, through his deputy Ibrahim, deserved his reputation as law-giver. Ibrahim showed so much interest in the welfare of the people, besides providing so well for

⁶⁴Cf. Devonshire, *L'Egypte Musulmane*, 121.

⁶⁵Sanuto, *op. cit.*, XXXVII, 27, 142, 268-269.

⁶⁶Rustem, *op. cit.*, 68; Sanuto, *op. cit.*, XXXVIII, 160.

⁶⁷This material has been taken from Digeon, *Contes Turcs et Arabes*, which contains a translation of Ibrahim's laws for Egypt.

⁶⁸Hammer, *Geschichte*, III, 41.

the future peace and prosperity of the country in order that his Emperor could obtain great revenues, that it is worthwhile to list here some of the ordinances he decreed. In many cases the references show that the superseded laws were bad, or badly abused. In the case of the debasing of the money, however, it is astonishing to find Khair Bey blamed for what Kansuh al-Ghuri had done.

Under the new laws the district inspectors, or *kiashifs*, were given direct supervision over most governmental activities. Their positions were not hereditary, but were for a term of years, and they were appointed by the Pasha. Some of the duties of these officers may be listed as follows: (1) maintenance of public works, such as canals; (2) supervision of the collection of taxes; (3) re-peopling of destroyed and uninhabited villages; and (4) guarding against raids of the Beduins.

Penalties were provided for the neglect of these duties by the *kiashifs*, and violations were to be reported to the Porte, or Sultan. Failure of a *kiashif* to seed lands, the ruin of a village by his exactions, speculation, and, above all, failure to maintain canals for irrigation, were all treated as serious breaches of duty, any of which drew the death penalty as well as the liability of paying damages to those who were injured. There was no alternative. Furthermore, the *kiashif's* death in such a case was to be as ignominious as possible, and in the very village he had ruined. Deserving *kiashifs*, on the other hand, were to receive suitable rewards from the Pasha himself, for exceptional ability in carrying out their duties.

Taxes in kind, such as cattle, were to be abolished under the new laws, because of the opportunity open to the *kiashif* of selecting the best animals. This sort of tax was to be commuted into a money payment. Careful accounting of taxes was demanded, and any startling difference in the income from a particular tax in different years was to be investigated.

To aid the *kiashifs* in guarding against raids of the Beduins, rewards were offered for the heads of the raiders. In case the marauders came in too large numbers, the *kiashif* was to ask secretly for troops from the Pasha. To protect innocent Beduins, reports of Beduin raids were to be investigated.

The "court" system was of this order: The Pasha had direct jurisdiction over the *kiashifs* and could pass sentence on them. The *kiashif*, in turn, had jurisdiction over the people in his territory, but he could not condemn a person to corporal punishment or a pecuniary fine except in joint action with the *cadi*, or judge. The judges were to be appointed for life, as in the rest of the Empire. *Kiashifs* were not to review cases (that is, accept appeals of cases they had judged), because it was suspected that their object might be mercenary. Whenever a peasant was

executed, his property was not to be confiscated, but was to be delivered to his legitimate heirs.

The schedule or tariff of fines and costs of Rumelia, the standard in the Empire, was to be used under the new laws. A copy of this schedule was to be sent to the administration in Cairo, and thence distributed to all the cadis, who in turn were to publish it, so that all might know the laws they were not to contravene. In case a *kiashif* assessed a fine higher than was permitted, the *cadi* was to report him, and the Pasha was to punish him in exemplary fashion, after requiring repayment to the injured party of the amount unlawfully collected. The cadis were forbidden to sell to others the right to try cases in their stead, and the Pasha of Cairo was to depose those guilty of such acts of venality, and provisorily to replace them by trained, honest people, sending notice of the temporary appointment to the Porte. A judge guilty of favoring wealthy culprits was to be sent to prison and deprived of his office.⁶⁹

The Beduin sheikhs, too, were assigned certain definite duties and privileges, such as the following:

(1) They were to supervise the re-establishment in their districts of ruined villages, and to see that the lands were cultivated. Fellahs were to be induced by gentle, wise means of the sheikhs to settle in these lands.

(2) They were to sow the lands in their districts that were irrigable by the Nile.

(3) They were to take care of the canals.

(4) They were entrusted with collection of taxes, and tax collection was to be handled monthly. They were required to adhere strictly to the tax schedule. The sheikhs were to present to the Pasha at the end of the year a notebook giving an account of their collections.

(5) In making their rounds, the sheikhs were to be accompanied only by members of their families. They were strictly forbidden to drag along several Beduins, as this would only increase the tax burden of the peasants.

(6) The sheikhs were forbidden to grant asylum to rebels, fugitive slaves, or any law violators. On the contrary, a fugitive was to be delivered to the *kiashif*, except in the case of men of influence, who were to be chained and handed to the Pasha in Cairo. Especially to be guarded against were the tribes of Baghdad-Oglu-Hassain-ed-Din, Ismail, Emir-Daud, Uglan, and Askul. The Pasha was to take care that any Beduin who might give asylum to outlaws should be punished.

(7) The customary gifts from the sheikhs to the Pasha were expressly forbidden, under severe penalties, to come from taxes.

(8) On the annual renewal of their patents of office, and after the payment in full of all taxes due, the sheikhs were to be presented with robes of honor furnished by the Imperial Treasury, and with presents.

Negligence of the sheikhs was to be punished just as that of the *kiashifs*. Any Beduin sheikh who violated a law or neglected his duty was to be arrested by the Pasha, subject to the approval of the secretary of the treasury in Cairo. Notice of the arrest was to be given the Emperor, and an aga or bey was to be appointed to take over provisionally the duties

⁶⁹Digeon, *op. cit.*, 260-263.

of the suspended sheikh. The Pasha had power to depose a sheikh and nominate his successor. The Pasha was even allowed to sentence sheikhs to torture, but discretion was recommended in this latter action.

The Pasha was to maintain residence in Cairo, and was to hold his Divan, or Council, four times a week. Affairs of the Holy Cities, Mecca and Medina in the Hejaz, were to occupy the first place; next in order were the affairs of the subjects of Egypt; and lastly came those of the Imperial domains. A session of the Divan could be postponed only in extraordinary situations. At the end of each year the Pasha was to despatch to the Porte a detailed memorandum of the Divan meetings, with reasons for his decisions and actions.

Some of the other provisions of Ibrahim's laws were as follows:

(1) The Treasurer at Cairo was to take care that the villages be justly assessed and farmed out to rich, responsible men. Taxes, all collected monthly except that on the harvest, were to be deposited in the Imperial Treasury in Cairo. Deficits were to be made up by the farmers and inspectors. If a deficit was exorbitant, the farmers and inspectors were to be punished. Tax-farmers who failed to collect their quotas were never to receive a patent again. Sums illegally extorted by the tax-farmers were to be returned, and the wrongdoer punished severely. The treasurer was to compose a very detailed memorandum of his accounts, which was presumably forwarded to the office of the Emperor in Constantinople. The punishment for exorbitant deficits on the part of the tax-farmers was life imprisonment.

(2) Tenants were to be required to pay promptly what they owed; if they did not, their property was to be sold, and if a deficit still remained, the guarantor of the tenant was to make up the amount.

(3) In case lands were damaged by inundation, taxes were to be proportionately reduced.⁷⁰

(4) There were to be inspectors and clerks subordinate to the *kiashifs* and sheikhs to assist in supervising the cultivation of lands.

(5) Duties and rights of officials were to be explained carefully by their superiors, so that the tax-farmers would have no reason to oppose them.

(6) Because some officials had been collecting taxes twice, without giving the peasants receipts, it was ordered that the accounts of the peasant assistants accompanying the collectors be legally registered, and that these accounts be made accessible.⁷¹

(7) Only sixteen per cent alloy was to be put in coins. One hundred drachmas were declared equal to twenty-five paras. Gold was to be bought at the current price, and not below it, by the superintendents of the mint at Cairo. Coins were to be of the same weight and name as those minted at Constantinople; that is, each sequin sultani was to weigh eighteen and one-half carats. Ten sequins of every one hundred mithkals of gold converted into specie were to be deposited in the treasury. One hundred and thirty sequins, instead of one hundred and twenty-nine, were to be minted from every one hundred mithkals of gold. Gold delivered to the mint to be transformed into coins was to be promptly returned in coin form. If a delay beyond five days occurred, the Pasha was to be required to return the gold himself.

(8) The alteration of coinage was ordered to be stopped. Under Khair Bey the sequin had been lowered to twenty-five aspers, although its normal value was

⁷⁰Digeon, *op. cit.*, 240-241.

⁷¹*Ibid.*, 197-219.

twenty-five maidins. Only sequins of the old weight of twenty-five maidins were to be struck, but both old and new coins were to be received on the same terms.

(9) The ten per cent duty on drugs and spices was henceforth to be paid in cash and not in kind. Claims for damaged goods were to be investigated to avoid fraud. Customs duties might be reduced, however, by the Pasha.

(10) Every three months the total of the customs-receipts was to be sent to Cairo to the Imperial Treasury and there registered.

(11) Cheating customs officials were to be dismissed. The farmers of the customs who had been accustomed to raise the legal, fixed rates were to be prevented from doing this by the officers of the Imperial Treasury.

(12) Because privileged people such as spahis (fief-holders) had granted protection from customs duties to merchants who accompanied them to Mecca, so that dues were lost entirely or in part, and because others had passed off as their domestics the slaves they bought in Ethiopia, Nubia, or elsewhere, in order to sell them in Egypt, the customs agents were ordered to investigate carefully every claim and allow to pass duty-free only food, clothes, furnishings, and domestic slaves of the spahis and pilgrims. Customs were to be paid on all slaves for sale and other commodities.

(13) Offices of inspector were to be farmed out to the highest bidder, and careful accounts were to be kept of the farms.

(14) The Imperial Treasurer in Cairo was to appoint two secretaries, one for the Turkish language and the other for the Arabic language, who were to send out orders in these tongues. The salaries of these two men were to be paid from the Imperial Treasury.

(15) The Pasha and the troops were not to be paid from the Imperial Treasury,⁷² but from their timars (fiefs).

(16) All officials in whose organizations there were corrupt men were to get rid of them and procure decent, honest men.⁷³

(17) The subashi, though charged with the policing of the town, was not to judge cases; the latter were to be heard only before the Divan of the Pasha. Penalties were provided for violation of this rule.⁷⁴

(18) Peasants were not allowed to possess or use lances. The kiashif was to notify the fellahs of the prohibition and then collect and send all the lances to the Imperial Arsenal in Cairo. The fellahin in whose possession arms were found were not to be disquieted or treated severely, however. The prohibition against this was express.

(19) The garrison was to be assigned barracks near the Pasha's palace. The troops were responsible for preservation of order in Cairo, and they really served as police.

(20) Drinking liquor, which had become common even in Ramazan, the month of fasting, was to be prevented by the closing of saloons. Sundry other "blue laws" were also decreed.⁷⁵

(21) The poor people were no longer to be compelled, as formerly, to buy syrup extracted from sugar, prepared and refined in Cairo.⁷⁶ This syrup henceforth was to be sold only to those who wished it.

(22) In selling grain, Jidda was to have the first choice, because it was the port to the Holy Cities of Mecca and Medina. Quantities were limited for Cairo, Rosetta, Damietta, Alexandria, and Rhodes. In other words, Jidda could buy all the grain it wanted; then the other towns mentioned could buy a certain amount. Only when these towns had bought the amount they were entitled to, or when it was evident that there was enough to satisfy them, could foreigners make purchases.⁷⁷

⁷²Digeon, *Contes Turcs et Arabes*, 253-258.

⁷³*Ibid.*, 259.

⁷⁴*Ibid.*, 259-260.

⁷⁵*Ibid.*, 246-251.

⁷⁶They formerly had to pay the price of the highest grade for the cheapest kind.

⁷⁷Digeon, *op. cit.*, 220-221.

(23) Anyone who opposed the rules introduced by Ibrahim was to be treated as a rebel, and whoever lent him aid was to be pursued by the troops, his lands were to be taken, and if caught he was to lose his life. If a rebellion started in this manner spread into other provinces, the Porte was to be notified.

Under these wise, humanitarian regulations of Ibrahim Pasha, Egypt had no serious disorders for a very long time.

Selim had erred when he gave the control of all Egypt to one governor, with no one to hinder him and, so far as is known, none to advise him.⁷⁸ During Ahmed's revolt Suleiman had appointed ten sanjak-beys to live in Egypt.⁷⁹ The continual trouble with the Mamelukes suggested to Ibrahim the possibility of enlisting them on the Emperor's side by giving them positions of authority. Accordingly, Ibrahim drew up a charter for Egypt, containing the following provisions:

The Sultan's representative or beylerbey was to govern Egypt from Cairo, and to take counsel with the beys on the welfare of the state. If the beylerbey (or pasha) should act contrary to the interests of Egypt or the Empire, the beys were to suspend him and carry their complaints to the Porte. In time of war, each sanjak-bey of Egypt was to furnish and command one thousand troops, and was to maintain that army at his own expense till peace was made. Each year Egypt was to send 560,000 aslani (later raised to 800,000) to Constantinople, but the beys were often excused by pleading that they needed more for the upkeep of the canals and fortresses, and they rarely sent more than half the stated amount to Constantinople. Egypt was to send an equal amount for the upkeep of Medina and the Kaaba, and this gift was not to be in silver, but in grain and other food.⁸⁰

In time of peace Egypt was not to maintain more than 14,000 soldiers or Janissaries. An annual tax of 1,000,000 couffes (170,000,000 pounds) of grain, 600,000 of cheese, and 400,000 of barley, was laid on the produce of the land, to be sent to the granaries of Turkey. Egypt was to decide all matters pertaining to itself, except those of religion, in which cases the decision of the Sheikh-ul-Islam of Constantinople was to prevail. The mint of Cairo was to continue to strike the coins peculiar to Egypt and to add the term "Masr" (Egypt), but the name of the reigning Sultan of the Ottoman Empire was to be on them also. An imperial inspector was to see that the coins were so struck.

Finally, the beys were to elect a sheikh-el-belad, who, when confirmed by the beylerbey, was to be their representative and to be recognized as their chief. If a beylerbey should perform tyrannical acts, or go beyond his rights, the sheikh-el-belad was to have the right of reporting to the

⁷⁸Cf. Bocignol, *op. cit.*, 5: hanc (Aegypti provinciam) Turcarum regem, non uni ut prius, sed pluribus gubernandam concessisse . . . (i.e., on the death of Ahmed, the rebel).

⁷⁹Sanuto, *op. cit.*, XXXVI, 99-100, 64.

⁸⁰Savary, *Voyage*, II, 197-199.

Porte the grievances of Egypt. If Egypt should be invaded, the forces of the Empire were to defend it without any charge for the expenses incurred.⁸¹

The ambition of the beys was to become sheikh-el-belad, or mayor of the city of Cairo, which office insured the possession of the political power in Egypt. The Porte came to be so preoccupied elsewhere that his efforts were limited to setting the beys against each other. This policy constantly produced coalitions and subjected the pasha himself to the will of the three or four beys who maintained large households of Mamelukes whom they employed as soldiers.⁸²

THE PASHALIC OF EGYPT

The beylerbey, or pasha, of Egypt governed all Egypt and the Hejaz, which latter, however, was not very obedient. Of the sanjak-beys, who varied from sixteen to twenty and twenty-four, twelve resided constantly in Cairo. These sanjak-beys each received from six thousand to eight thousand ducats annually. They were probably stationed in Cairo to control the power of the pasha, who would otherwise have had almost absolute authority, at least in the sixteenth century. A further precaution was taken to insure his devotion to the Emperor, or at least his disinterestedness, by selecting eunuchs for the position. Except for this disadvantage, a pasha was well off, receiving from his timar 30,000 ducats annually, and retaining some four thousand slaves.⁸³

Egypt itself under the Ottomans was bounded on the south by Nubia, Assuan, Elephantine, and Suakin. Later in the sixteenth century it extended to the second cataract. On the east it was bounded by the Red Sea, and on the west by Barca.⁸⁴

The twelve provinces of Egypt were: Cairo, Said, Sharkiyyah, Gharbiyyah, Bahaira, Menufiyyah, the Beduin Tribes, Faiyum, Saiyuth, Rosetta, Damietta, and Alexandria.⁸⁵

Egypt had a peculiar kind of land tenure, which, in fact, changed but little from the time of the Arab conquest to 1808, all lands being tributary, tithe, or wakf.⁸⁶ There were no fiefs, properly speaking, but only lands granted for life by the Sultan and transferred through inheritance by a new investiture for each new incumbent, and lands that

⁸¹Savary, *op. cit.*, II, 199-200.

⁸²Paton, *op. cit.*, I, 71.

⁸³Postel, *La Tierce Partie des Orientales Histoires*, 65; Ludovisi, *Relazione*, 6; *Turcici Imperii Status*, 198; Lonicér, *op. cit.*, 77; Chesneau, *op. cit.*, 46; Rocca, *op. cit.*, 150a; Anonymous, *Libri Tre*, 130b; Radzivil, *Jüngst Geschehene Hierosolymitanische Reysc*, 149; Meggen, *Peregrinatio*, 178-179.

⁸⁴Ortelio, *Teatro del Mondo*, 215, 209; Giovanni, *Viaggio di Colocut*, 98b; Barbarigo, *op. cit.*, 4.

⁸⁵Hammer, *op. cit.*, II, 270. Sharkiyyah is the Eastern Delta, Gharbiyyah the Western Delta, and Menufiyyah the Middle Delta.

⁸⁶McCoan, *Egypt*, 171-172. The tributary lands were known as *Kharajich*, and the tithe lands as *Ushurich*.

were farmed out. These farmers levied on the peasants the tithes and taxes, but paid part of what they collected to the treasury under the term "farm rent." Instead of military service a money contribution was asked. Because of the propensity of the *multezim* (farmer) for extortion, military power became important for the collection of taxes, and only those *beys* with many retainers were able to hold farms. Finally heirship was established and became legal by 1798.⁸⁷

THE GEOGRAPHY OF IRAQ

(See map 3 on page 12)

To the east of Syria lay the land of Iraq, which was not united as it is today, but was divided into three districts, one about Baghdad, the second around Mosul, and the other, called Jezireh, extending west of Baghdad and including Ana. Jezireh had submitted to Selim in 1514. It was accounted of no importance, because it was occupied only by Kurds and Beduins. The eastern part of present-day Mesopotamia, which we shall speak of as Iraq, was bounded on the north by Diyarbekir and Van, on the west by Rakka, and on the east by Persia. Under the Turks, Iraq usually comprised three provinces: Mosul, Baghdad (or Iraq), and Basra. On the south the land terminated at the Persian Gulf. Baghdad formed the center of the land, which was under the control of the Persians, who had conquered it in 1508.⁸⁸

Consisting largely of grazing lands and inhabited by Beduins, Iraq was nevertheless one of the paths for the commerce between the East and West. Indeed, at one time, it had been the most cultured land of the Arabs.⁸⁹ It was in Iraq that Harun al-Rashid and the Abbasids had ruled in such splendor and encouraged learning and culture. But those days were long past, because the long and terrible wars of the various peoples who had fought over the possession of the land of the two rivers had resulted in the loss of prosperity and culture. Although the old overland route from India to Syria had for long been in little use, some merchandise continued to come up the Persian Gulf and to be distributed from Iraq to Persia, Syria, and Turkey.⁹⁰ But the development of the water route from India to the Red Sea had lessened this greatly. Bagh-

⁸⁷Menzies, *Turkey Old and New*, 236 and note.

⁸⁸Evlia, *op. cit.*, I, pt. 1, 101; Chérèfouddine, *Chérèf-Namch*, I, pt. 2, 153-157; Anonymous, *Relazione Della Guerra di Persia*, 197; D'Alessandri, *Narrative*, 221; Barbarigo, *op. cit.*, 5; Jonquière, *op. cit.*, I, 3; Ommia Jahhiah, *Lubb-it Tavarich*, 168; Spandugino, *La Vita di Sach Ismail*, 105a; Giovio, *op. cit.*, 306b; Rasmussen, *op. cit.*, 123. Mosul and the region about it was first included in the province of Diyarbekir (Ionus Bei, *Opera Nova*, p. CXIib; Daniello de Ludovisi, *Relazione*, 5; cf. Ommia Jahhiah, *op. cit.*, 171; Rustem Pasha, *Die Osmanische Chronik*, 141-142). But by 1570 the province of Mosul seems to have been organized independent of Diyarbekir and Baghdad (Iraq) (Paolo Contarini, *Relazione*, 218; Gianfrancesco Morosini, *Relazione*, 256; Marcantonio Barbaro, *Relazione*, 304; M. Belin, *Du Régime des Fiefs*, 283).

⁸⁹Barlow, *Brief Summe*, 114; Cartwright, *Observations*, 520; Fitch, *Voyages*, 166; A. Contarini, *Travels*, 127; Caesar Fredericke, *Voyage*, 368.

⁹⁰D'Alessandri, *op. cit.*, 225; Paolo Giovio, *Istorie*, II, 343; Cartwright, *op. cit.*, 520; Fitch, *op. cit.*, 167-168; Fredericke, *op. cit.*, 368.

dad itself, the greatest city of Iraq, was decayed and had but a small population. Some products of the East Indies, however, were sent through Iraq to the Middle East. Those of Persia were important, and were also sent through the land of the Tigris and Euphrates. Persia, however, had another reason for holding Iraq, for the shrines of the founders of its sect of Islam, Shi'ism, were located near Baghdad. The attitude of Iran toward Iraq indeed resembled that of the Christians toward Palestine. We can easily understand, therefore, that when Suleiman took possession of Iraq in 1534 a great amount of trouble was going to happen in the not very remote future.⁹¹

THE CONQUEST OF IRAQ

It was because the Ottoman Empire possessed Syria that Suleiman came to blows with Persia in 1533, for the Persian Kurds had frequently made raids into Diyarbekir and the province of Aleppo. The complaints of the Syrian governors brought Suleiman to declare war on Tahmasp, the successor to Ismail. But it was not the raids of the tribesmen alone that caused Suleiman to march from the dangerous European front and leave his rear almost unprotected. It must be remembered that in the first years of the sixteenth century there were several Portuguese-Persian alliances directed against Turkey. Portugal wished to keep the Turks embroiled in war with Persia, in order to prevent them from gaining back for the Arabs their old trade with India, while Persia needed the artillery of the Portuguese.⁹² Another fact in point is that Tahmasp, Shah since 1525, had received several ambassadors from Portugal and the Holy Roman Empire who offered to aid him in an attack on Suleiman. Suleiman was by no means uninformed, however, for he maintained spies about Tahmasp's court and even attempted to secure Indian allies against Persia.⁹³ No doubt Tahmasp was motivated in his kindly demeanor toward these enemies of the Ottoman Empire by his hatred of the conqueror of his father.⁹⁴ This labyrinth of plots at last had opened out on war.

Iraq was not the scene of the campaign, for the land had become so unimportant that the capital of Persia was elsewhere, at Shiraz. The conquest of Iraq was accidental, as the Ottoman troops happened to be in that region merely in search of winter quarters. In fact, Mehmed

⁹¹P. Giovio, *Istorie*, II, 343; Giovanni, *op. cit.*, 103b; Berchet, *Relazioni*, 61; *Early Voyages . . . to Russia*, 89, 98; Chihā, *La Province de Bagdad*, 118; Banse, *Die Tuerkel*, 248.

⁹²P. Giovio, *op. cit.*, II, 334-335; Barbosa, *Description*, 85; Alboquerque, *Commentaries*, II, 107-108, IV, 175-176; Leunclavius, *Hist. Musl.*, 689; Cavalli, *Relazione*, 278.

⁹³Giovanni, *op. cit.*, 101b-102b; Depping, *Histoire du Commerce*, II, 289. Giovanni (1529) states that the kings of Ethiopia and the Tartars offered aid against the Turks, by attacking Egypt and Anatolia, respectively. He also says that ambassadors of Charles V were at Tahmasp's court; they had come, one via Poland and two around the Cape of Good Hope. Their object in avoiding the Ottoman Empire, with which their sovereign was at war, is obvious.

⁹⁴Giovio, *Istorie*, II, 334.

Khan, the governor of Baghdad, sent an emissary to Suleiman in the late fall of 1534 when the Turk was far off. The message that the emissary carried is unknown, but it is possible that Mehmed was bribed by Suleiman, for he fled when the Turks advanced, and did not offer any resistance, with the result that the Turks entered Baghdad without striking a blow, and a cortege of nobles even escorted them into the decorated city. No disorder of any kind took place.⁹⁵

Suleiman meant to retain possession of Baghdad, for that was one way to prevent the Persians and Portuguese from executing their plots against him and harming the rich provinces of the Levant. Iraq, in short, was but a frontier province or march. It is true that Suleiman did have some claim to the possession of it, for two years previously the governor, Zulfikar Khan, had declared himself independent of Tahmasp, and had sent Suleiman the city's keys. But Zulfikar had been slain by the Persians, and Baghdad with all Iraq had been brought back to its old allegiance. Baghdad, however, was not all Iraq, and during the winter of 1534 Suleiman was kept busy negotiating with the Beduins and procuring supplies for his army, because Tahmasp had devastated all the neighboring regions, in order to cause Suleiman to give up the campaign.⁹⁶ All the towns of Iraq heartily welcomed the advent of Turkish rule and sent Suleiman envoys to announce their loyalty. Mardin, Urfa, Hasankeif, and Basra promised to obey the Emperor and received garrisons of Turks. The districts of Kazvin, Karakan, Erivan, Sultanieh, and Hillah came into the Turks' hands in this winter of 1534-1535. When spring came Suleiman had received the pledge of loyalty from all Iraq. The Emperor showed his liberal spirit by visiting the shrines of many of the Moslem saints, both Shi'i and Sunni, a very wise thing to do, because Iraq contained many adherents of both sects.⁹⁷

At the end of four months Suleiman had organized the government of the new province under an Albanian pasha, also named Suleiman, and had assigned beys to the sanjaks he created. Providing the governor with a garrison of a thousand harquebusiers and a thousand cavalry, the Emperor left Baghdad on April 2, 1535, to resume the campaign in the region lying to the north of Iraq. The governor was well supplied with troops to ward off any future attacks of Tahmasp, for Suleiman had had a citadel built in Baghdad and had assigned a total of 32,000 troops to guard the whole province. The governor seems to have administered the province rather well, for he was retained until May, 1541, when he was succeeded by Oveis Pasha.⁹⁸

⁹⁵Rustem, *op. cit.*, 81, 83; Rasmussen, *op. cit.*, 92; Giovio, *op. cit.*, II, 341, 343; Hammer, *Geschichte*, IV, 149.

⁹⁶Hammer, *Geschichte*, III, 142; Spandugino, *op. cit.*, 108b.

⁹⁷Giovio, *Istorie*, II, 343; Evliya, *op. cit.*, 107; Leunclavius, *Annales Turcici*, 82; Rustem, *op. cit.*, 84.

⁹⁸Hammer, *Geschichte*, III, 153-154, 227; Spandugino, *op. cit.*, 109a.

Tahmasp sent proposals of peace to the Emperor, but they were rejected, for they involved the surrender of the new province to the Persians, and the cession to the Turks of a region to the north of the Arab Iraq, called Kurdish Iraq. No doubt Suleiman felt honored to hold Baghdad, the old and famous capital of the caliphs when Islamic culture was at its apogee. The campaign of 1535 has no reference to our subject, and it is sufficient to say that Iraq was won and was long to be held by the Turks. Suleiman's interest in his new province was shown a few years later, in 1544 (942 A.H.), when he constructed the Canal of Hussainiah, near Kerbela. In the period of this treatise, there is no thread of events to follow in Iraq from the year 1534, as its history from that time is merely that of a province. Turkish authority had been well founded in Baghdad, for it alone of all Iraq remained loyal to Suleiman when, in 1540, a rebellion broke out. Perhaps because of the rebels' failure to get hold of the metropolis, the troops sent from Turkey easily restored order.⁹⁹

THE BEDUIN TRIBES OF IRAQ

The Beduins who dwelt in the land of Iraq were, like their brothers in Egypt and Syria, an independent, roaming, non-taxpaying lot. Their bad habits of stealing and robbing made commerce very difficult. Some of the more canny tribes, however, merely demanded "transit money" from travelers, thus taking upon themselves the functions of the government.¹⁰⁰ Things grew so bad, that it became difficult for the Turks to keep open the routes in Iraq,¹⁰¹ as it has ever been for any government facing the indomitable Beduins. Statistics are totally lacking, but it seems likely that Iraq was the most expensive of all the provinces of the Ottoman Empire. The circle was vicious. To prevent Iraq from falling into bleak poverty and to see that the already expensive¹⁰² overland route through that country could be maintained in some degree, it was necessary to keep the Beduins from exacting so much from merchants that the Iraq route would become impracticable. On the other hand, every post of soldiers cost considerable money. It seems that the advent of the Turks rendered possible the partial revival of the Iraq route in the latter half of the sixteenth century, for before this time the numerous petty governments extending from the Persian Gulf up through Iraq and Jezireh into Syria had had to be supported along with the Beduins. A decrease in the

⁹⁹Rustem, *op. cit.*, 89; Chiha, *op. cit.*, 120-121; Charrière, *Négociations*, I, 277, 442.

¹⁰⁰Eldred, *Voyage*, 8; Teixeira, *Travels*, 85; Linschoten, *Voyage*, I, 49; Fitch, *Voyage*, 167.

¹⁰¹The Beduins robbed even the Turkish soldiers, and killed them when found alone (Teixeira, *op. cit.*, 53, 73). Guards were necessary even between Baghdad and Hillah (*Ibid.*, 56).

¹⁰²Low water, which doubled the time of the voyage (Teixeira, *op. cit.*, 32-33, and Fredericke, *Voyage*, 371); frequent customs duties (*Ibid.*, 371; Will Barret, *Money and Measures*, 11-13; Fitch, *Voyage*, 166; Newberry, *Two Voyages*, 452); the strong current of the Tigris and Euphrates, which rendered it impossible to go upstream on the river, so that goods had to be shipped north in caravans (Balbi, *His Voyage to Pegu*, 143; Fredericke, *op. cit.*, 369; and Fitch, *op. cit.*, 165)—these, added to the thefts of the Beduins, made commerce through Iraq expensive indeed (Cartwright, *Observations*, 483).

number of governments probably meant a decrease in taxes and customs fees. At any rate, the theory that the Turks ruined the trade of Mesopotamia is not at all true. We know that the route from Baghdad to Syria was of little use at the commencement of the sixteenth century, and that the route to Tana from Basra was out of use fifty-six years before the Turkish conquest of Iraq. On the other hand, the overland commerce from the Persian Gulf up to Baghdad and across to Syria, especially to Aleppo, became very important after the Turkish conquest of Iraq.¹⁰³ Because the most convenient entrepôt of Syria for the Iraq route was Aleppo, the Venetian consulate was transferred thither in 1548. Alexandretta, the port of Aleppo and Tripoli, then became more important than Beirut, the port of Damascus, which henceforth declined, for it was well fitted only for the caravan route from Mecca or from Egypt.¹⁰⁴

The first serious trouble arising from Turkish interference with the Beduin tax-collectors occurred in 1546. The marsh Arabs, whom the British learned to know only too well during and after the World War, found themselves faced by loss of revenue. A sheikh, Saiyyid Amir, had separated from his tribe, the Benu Mush'ash'a, and, pledging allegiance to Sultan Suleiman, had been granted the possession of certain strongholds in his neighborhood. But the Sultan also despatched an officer, Khurram Bey, to build and occupy a citadel to control these strongholds. This latter move disgruntled the chieftain, who then rejoined his tribe and asked for aid from Yahya,¹⁰⁵ governor of Basra and successor to Mir Rashid ed-Din Ibn Magamis, who had submitted to Suleiman in 1534. Yahya sent his vizier with a hundred boats, but Khurram, who had been reinforced in the nick of time by two thousand soldiers from Baghdad, defeated the rebels. Yahya refused to heed the summons from the Porte, so troops were sent from Kurdistan and Iraq. Ayas Pasha, the governor of Baghdad, furnished troops to march along the river,¹⁰⁶ and he himself started, on October 29, 1546, with other troops from Diyarbekir, Kurdistan, and Mesopotamia. The Turks seized Kurna, a town at the junction of the Tigris and Euphrates, north of Basra, and beat off an attack. The rebel fleet from Basra was next defeated by the Turkish vessels, which then sailed on to Kurna and there joined their troops that had just repulsed another attack. Fighting their way by land and water, the Ottoman troops pressed on to Basra and burned the insurgents' fleet. When they saw that they could hold out no longer, the

¹⁰³Linschoten, *Voyage*, I, 159; Pantaleão de Aveiro, *Itinerario*, 500; Guerreiro, *Itinerario*, 50; Zuallardo, *Viaggio*, 283; Fuerer, *Itinerarium*, 101; and Belon, *Plurimarum Singularium* . . . 370-371; Giovanni, *op. cit.*, 106b, 107a.

¹⁰⁴Berchet, *La Repubblica di Venezia*, 81; Wrag, *A Description of a Voyage to Constantinople*, 94; Chapman, *The Fourth Voyage into Persia*, 144; Fuerer, *op. cit.*, 101; Chesneau, *Voyage*, 141; Eldred, *Voyage*, 2; and Zuallardo, *op. cit.*, 283.

¹⁰⁵Rashid ed-Din's place, though given by Suleiman to the deceased ruler's son, had been given by the nobles to Yahya, sheikh of a tribe, the Banu Aman (Rustem, *Chronik*, 140).

¹⁰⁶The sanjak of Mosul alone sent 120 ships with guns and 32 with food (Rustem, *Chronik*, 143).

rebels fled to el-Hasa, on the northeastern coast of Arabia. On December 15, 1546, Basra was entered by the Turks, who established a mint there and assigned the post of governor to Belal Mehmed Bey. Suleiman appointed him beylerbey of the vilayet and assigned him a million aqche as salary.¹⁰⁷

For almost twenty years after this defeat the marsh Arabs were comparatively peaceful, but the memory of their defeat rankled. They kept in trim by attacking Turkish merchants, and at one time attacked the fort at Kurna, besides making various raids from Syria to Hormuz. Although they possessed few weapons other than arrows, darts, and lances, and very few cannon and harquebuses, they were admirably fitted for the irregular type of fighting along the Tigris. There they fought with the aid of bladders by which they swam across the many rivers. But it was not until 1566 that their smoldering hatred of the Turks at last burst forth. In that year one of the chiefs of the Beni Alyan¹⁰⁸ was trapped by the governor of Basra, who attempted to punish the chief for the crimes of some of his tribe. Despoiled, and escaping with only a few men, the chief waited until the governor had set out for el-Hasa, and then he attacked and beat him. With the guns that they had probably obtained from the Turks, the Beduins grew bold, and an army of twenty thousand tribesmen prepared to besiege Basra by land and by water. The rebels sailed down the Tigris on palm rafts, which were bulwarked with palm wood and reeds, and although they were fired on by the Turkish garrisons in the forts near Basra, the balls did little damage to the soft wood. The rafts were set on fire by the Beduins and directed toward the forts, and, while the crews swam away, the Turkish garrison of one fort was smothered by the smoke of the fire which they could not stamp out, because the land forces of the Beduins, hidden from the Ottoman barrage of fire, picked off whoever showed himself. The garrison of the fort across the river was saved from the fate of their countrymen by jumping into the water and swimming away. Meanwhile the cavalry of the citadel of Basra had been tricked into pursuit of the tantalizing bandits, who ambushed the horsemen and killed all except those whom they saved as messengers to carry the dreadful message back to Basra.

The Beduins next resorted to "Schrecklichkeit," by polluting the water supply with dead dogs, horses, and cattle. Although all Basra was surrounded, messengers from the town broke through. Finally, in 1567, the terrible sufferings of the thirsting population were relieved by the arrival of thousands of cavalry and infantry rushed at top speed by the shortest route from Syria to the Euphrates. This Turkish army was defeated, however, and the Basrans would have fared badly indeed if further troops

¹⁰⁷Rustem, *op. cit.*, 140-144.

¹⁰⁸Evliya, *op. cit.*, I, pt. 1, 172.

from Baghdad had not greatly increased the strength of the relieving army. No battle ensued then, however, for the Arabs were too wise, and withdrew.¹⁰⁹

Baghdad had its taste of excitement the following year, 1568, when Elkas Mirza, a Persian prince, thought he saw an excellent opportunity of retaking Iraq. He collected twelve thousand men, largely Georgians from the Caucasus and exiles, hid them in some valleys near Baghdad, and he himself entered the town in merchant's garb. Within a short time fifteen hundred of his men had managed to make their way into the town, with orders to assemble at an appointed time. The plan was to kill the governor and all his officials, plunder the town, and kill whoever else might resist. Fortunately for the Turks, an outlaw betrayed the scheme to the governor, in the hope of getting both pardon and reward. Messengers were despatched at once to summon aid from nearby towns, and all Baghdad was called to arms.¹¹⁰ With as many soldiers as he could raise, Badrun, the governor, joined the townsmen and hastened forth to give battle to the Persians. The struggle was short, for the attackers were taken by surprise. Nine thousand of the raiders fell, and Elkas himself barely escaped with but three thousand cavalry.¹¹¹

THE ORGANIZATION OF IRAQ

The beylerbey of Baghdad received a salary of 30,000 ducats per year. The number of slaves the beylerbey and the sanjak-beys maintained was of course subject to their income.

The territory of the province was divided into twelve sanjaks, which furnished ten thousand spahis when there was need.¹¹² The 130,000 timariotes¹¹³ themselves furnished 300,000 troops, not including the camp followers.¹¹⁴

Somewhat later, under Ahmed I, in the seventeenth century, Baghdad consisted of eighteen sanjaks: Baghdad, Hillah, Zengebad, Javazar, Rumahia, Jangula, Karatagr, Terteng, Samurat, Biat, Derneh, Dehbalad, Evset, Keuneh-deh, Demirkapu, Karameh, Kilan, and Alsak. Baghdad itself, like Basra and el-Hasa, was held on an annual lease. The revenue of its governor, about the middle of the seventeenth century, amounted to 1,200,200 aspers.¹¹⁵

Basra became a hereditary government under Mohammed IV. All its land was assigned to the vali, who farmed it out, and its annual revenue was one million aqche. Basra contained twenty sanjaks: Ghuban,

¹⁰⁹Natalis, *op. cit.*, 332.

¹¹⁰*Ibid.*, 353.

¹¹¹*Ibid.*, 354.

¹¹²Tarducci, in *Turca Nikhtos*, 254; Postel, *La Tierce Partie*, 65.

¹¹³Holders of a fief yielding a small income (Lybyer, *op. cit.*, 335).

¹¹⁴Tarducci, *op. cit.*, 254-255.

¹¹⁵Belin, *Essais sur l'hist. économique de la Turquie*, 286; Evliya, *op. cit.*, I, pt. 1, 96, 89.

Ghasen, Sekiyl, Kerta, Bahrain, Sadrsuyet, Katif, Mehrusi, el-Hasa, Sadreva, Shatalu, Shattkharud, Shattavil, Pirhamidogli, Shush, Rahmana, Turakhogli, Aganrishilbok, Beni Mansur, and Basra.¹¹⁶

The province of Mosul to the north held dominion over Kurds as well as over its few Arabs. It extended south to Tekrit and comprised the sanjak-beyliks of Badjvanly, Eski-Mosul, Horan (or Herviane), Bane, Mosul, and Tekrit.¹¹⁷

El-Hasa extended from about Kuwait to near Cape Musandam. Its governors were at first installed as beylerbeys, and received a salary of 880,000 aqche, but later held their authority as hereditary rulers. The governors sent a monthly present to the beylerbey of Baghdad.¹¹⁸

THE INFLUENCE OF THE BEDUINS

Syria and Palestine, especially the eastern regions, were the home of marauding Beduins under the Turks, as under the Mamelukes. The caravans passing between Suez and Damascus and the northern towns of the province and from these latter to the east and northeast were the especial booty of the thievish tribesmen, who would attack even the pilgrims to Jerusalem if nothing better came their way. The region of these disorders was so large that all governments, except possibly the Roman, had been plagued by the tribes. The Beduins have frequently been admired for their love of freedom and the simple life, but it is difficult to concur in this travesty of Rousseauism. By their habits of causing, maintaining, and increasing disorder, and their insolence in holding up travelers and merchants for their possessions, they have been the greatest drawback to Arabdom—nay, they would even deny the term Arab to those who dwell in towns or on farms. The conservatism of the Arabs, induced by their religion, is often blamed for the decline of the Arabs. This is possibly true in part, but usually innovations can be transformed into established uses under conservatives, whereas very little can be done of permanent value when culture and civilization exist exposed to the danger of anarchic, uncooperating elements. It was robbery, pure and simple, that the Beduins practiced, although it has been regarded by some as merely the collection of head-fees, tolls, or visas that must be paid by anyone not a diplomat to the ruler of any territory which the traveler enters. The defenders of the Beduins, however, have failed to adduce any right, except that of self-preservation, on the part of the Beduins, to pillage or tax and if necessary even murder those who are not members of their own community. Their code is simple: if a

¹¹⁶Belin, *op. cit.*, 288; Hammer, *Staatsverwaltung*, II, 267-268.

¹¹⁷Belin, *op. cit.*, 283. The revenue of the beylerbey was 682,000 aspers (Evliya, *op. cit.*, 89).

¹¹⁸*Turcici Imperii Status*, 198; Evliya, *op. cit.*, I, pt. 1, 96; Belin, *op. cit.*, 288.

person is a stranger, is not tied to the Beduins by bonds of friendship or kinship, or if no one in the tribe vouches for the person, then that person is an outlaw. His property, his body, even his life are subject to these native tribesmen. Their code is still practiced today, in so far as is now possible. Traveling merchants must often take along members of the tribes into whose territory they purpose to enter.¹¹⁹

The reasons for the disorders that existed in the Beduin country are easily explained. The Beduins were almost the only inhabitants of the countryside. Their nature is not to settle down, except when forced to do so, as nowadays under Ibn Sa'ud of the Nejd, or when tempted by vast riches obtained by plunder, as were the Arabs of the century after Mohammed. Since the Beduins will not settle down, they are not rich by any means, but rather lack many things which the townspeople possess. The few products which the Beduins can offer for sale, such as cattle, camels, butter, wool, and camel's hair, are not worth so much that the townsmen, engaged largely in manufacturing or trading for export, can offer the Beduins what they want. The remedy to the tribesmen is simple enough, for it must be remembered that their minds do not easily perceive the distinction between *meum* and *tuum* except among members of their own and allied tribes. This abstinence from robbing their sworn allies is due to the observation, clear even to the Beduins, that there must be some security, else all would be anarchic, and a man would be able to trust only his own immediate family and possibly his relatives. The course approved by the Beduins is to take what they want if they can not get it in any other way. Naturally, it can not be denied that the Beduins prefer not to kill those whom they rob, for among all the Beduins exists the practice of blood-feud, which in some cases lasts for centuries. If a victim of a robbery is not a Beduin, then the matter is simpler, because there is little to be feared. The Beduins, however, as is quite human, prefer to get what they need with the least trouble possible, and therefore when they rob a traveler they usually do not kill him if he does not resist. But the mere existence of such widespread robbery is very unfavorable to commerce and to all security, even for peasants. The actions of the Beduins must be regarded as one very good reason for the poor government of the Empire's Arab provinces. It should be remembered, too, that the government was bad merely in comparison with provincial government of the late eighteenth to the twentieth centuries. That it was bad in comparison with Portuguese government in the Indies or in Brazil, or with Spanish government in the Americas, is false. On the contrary, it was perhaps superior to these.

¹¹⁹Teixeira, *op. cit.*, 39, 49, 72, 73, 84-85; Fitch, *op. cit.*, 166, 167; Fredericke, *op. cit.*, 368, 445; Cartwright, *op. cit.*, 483, 522; Linschoten, *op. cit.*, I, 49; Eldred, *op. cit.*, 4; Balbi, *op. cit.*, 145-146.

Up to the present century the only way order could have been brought into the Arab lands would have been to annihilate the Beduins, for patrolling them would have been prohibitively expensive. The entire wealth of the land would not have been able to support the many posts and soldiers and battles that would have been necessary. To tame the Beduins would have been impossible even under a sixteenth-century counterpart of Ibn Sa'ud, the present ruler and civilizer of Arabia, for Ibn Sa'ud has been successful only in a much less thickly populated area where there is less wealth to tempt the Beduins. The Ibn Sa'ud of the sixteenth century, moreover, would have lacked what his present-day namesake has—rapid communication by wireless, tanks, airplanes, and most essential of all, the rapid-fire gun.

CHAPTER IV

THE TURKISH EFFORT TO REVIVE THE LEVANT TRADE ROUTE

THE TURKS early realized that the prosperity of Syria and Egypt depended on the re-establishment of the old trade route from India through the Near East.¹ The Indian ports, however, were under the control of the Portuguese, who were actively patrolling the Red Sea, the Indian Ocean, and the Persian Gulf, as much after the Ottoman conquest of the Mameluke Empire as before. At various times Shehir, Aden, and Maskat had been visited and occupied or damaged by the Lusitanians.² Therefore, the Turks saw that it would be necessary to occupy Arabia and then combat the Portuguese in India. For that purpose Selim planned as early as 1519 to send a fleet from the Red Sea to India.³ But the Ottoman Empire was gigantic, extending from Hungary to Mesopotamia, and the task of governing the many different peoples included in it and fighting off the powers of Europe was so difficult that it left the Sultan little time or money or forces to use in attempting to re-establish the old Levant trade route from India. Besides inflicting damage on the Turkish shipping, the Portuguese had furnished Shah Tahmasp, the enemy of the Ottomans, with men and artillery and had taught the Persians to make and handle harquebuses and to found cannon. Furthermore, the Portuguese had taken part in the siege of Tunis, which was subject to the Turks. Nevertheless, the Turks were able to send a few ships to the Red Sea in retaliation.⁴

THE TURKS IN ARABIA

When the Mameluke government fell in Egypt, in 1517, the Sherif⁵ of Mecca, Saiyyid al-Barakat, had hastened to send his son to pledge loyalty to Selim, and in return al-Barakat had been made governor of the Hejaz, a district of Arabia which included the holy towns of Mecca and Medina, Jidda, and the land to the north of these towns. At the Emperor's command, Hussain, the brutal Mameluke governor of Jidda, was drowned, on the charge of having tortured and heavily taxed the citizens. The Mameluke troops in the Yemen, the most flourishing region of Arabia, recognized the sovereignty of Selim by July of 1517, so that

¹Crichton, *History of Arabia*, II, 112; Alvarez, *Narrative*, 374.

²Correa, *Lendas da India*, II, 536, 582-588, 736-741, 506.

³Sanuto, *Diarii*, XXVII, 141, 512-513.

⁴Cf. Bragadin, *Relazione*, 110; Chalcondyle, *Histoire Générale des Turcs*, 540; Giovanni, *Viaggio*, 109a; Lavallée, *Histoire*, 259; *Sommario di tutti li Regni*, 325b.

⁵Hereditary prince, or governor.

the Ottoman Empire by that time included the entire west coast of Arabia. Iskander, a Mameluke officer, was appointed governor of the Yemen, with Zebid as his capital.⁶

The Turks encountered serious difficulties, however, in governing the Yemen, because of the resistance of the natives to the expansion of the provincial government, a resistance which seems to have been wholly due to the adventurous spirit of individuals. About 1519 the newly appointed governor of Jidda, Emir Hussain ar-Rumi, secured the consent of Khair Bey, his overlord and the governor of Egypt, to use the old fleet and artillery of the Mameluke expedition of 1515-1516 for settling the disorders in the Yemen. Hussain had scarcely reached the Yemen, however, when he learned of Selim's death, which occurred in 1520, and, faced with the opposition of Iskander, the governor of the Yemen, and not knowing whether or not the new Emperor, Suleiman, would support his scheme, Hussain returned to Jidda. Battles in the Yemen made a renewal of Hussain's enterprise feasible a few years later, and accordingly in 1525 he and Salman, the old commander of the Mameluke expedition to India in 1515, with twenty galleys, took Kamaran, drove the Portuguese from the Red Sea, and enforced obedience to the Emperor from the inhabitants of the coast of the Yemen. This pair then conducted a private fight against the old Mameluke troops in the Yemen and forced them to acknowledge Turkish sovereignty. After conquering the Mameluke army, Hussain and Salman came to blows with each other, and Salman was forced out of the alliance. Because the home government could not adequately supervise the conduct of the Yemen's government, the officials of the latter were restrained only by their own character, which unfortunately was very bad. The history of this region for the following ten years is replete with wars and murders of officers by one another or by their soldiers, and it is clear that Turkish unpopularity in the Yemen has for its cause the character of the men who commanded the Imperial armies. They were in large part simply soldiers of fortune with no sense of duty whatsoever. Their sole aim was to become governors of the province themselves. One officer who became governor by civil war felt himself unsafe, and therefore calmly emigrated with his Turkish army supplies to India and settled down as a citizen in Diu.⁷

THE TURKISH EXPEDITION TO INDIA

The monarchs of India had been repeatedly sending embassies to the Sultans of Turkey⁸ for aid against the Portuguese, who oppressed

⁶Kutbuddin, *La Foudre du Yémen*, 425-427; Haji Khalfeh, *History of the Maritime Wars*, 26-27.

⁷Haji Khalfeh, *op. cit.*, 26-27; Kutbuddin, *op. cit.*, 430-437.

⁸In 1527 the King of Calicut had sent a request to Suleiman for aid against the Portuguese. Barbarossa's defeat by Andrea Doria had forced a delay. An expedition slated for 1528 came

their subjects grievously,⁹ but the Ottoman government had been so occupied with affairs nearer Constantinople that it was not until the middle of the fourth decade of the sixteenth century that it saw its way clear to apply its forces to combat the Portuguese. The governor of Egypt, Suleiman Pasha, was entrusted with the command of the expedition. The difficulties involved in transporting the material needed to build the fleet were enormous but were resolutely overcome. Because there was no suitable timber in Egypt or Syria or Arabia,¹⁰ the Turks were forced, as had been the Mamelukes before them, to convey the wood from the Gulf of Ayas to Alexandria and Damietta and Cairo by boat and thence by camel to barren Suez, whither not only food but also water had to be brought. The mules needed for hauling the lumber in the shipyards were brought from Ryfa to al-Kossair and thence to Suez.¹¹ Since Venice was at war with Turkey, the governor of Egypt seized several Venetian ships at Alexandria and impressed their crews into helping with the construction of the warships and then sailing them to India. So dependent were the landlubber Turks on European sailors that a Genoese was their naval architect. Two accounts of the war on the Portuguese have been left by an Illyrian and a Venetian who were in the Turkish naval service during the period of the conflict. Although the materials arrived from Asia Minor in 1537, the Turkish fleet was not ready till the late spring of 1538 and did not leave Suez until June of that year. Because of the shallow water and the difficulty of manoeuvring sailing ships in the northern waters of the Red Sea, the masts were not installed until the Turks had reached Jidda. There the cannon were taken on also.¹²

In this seaport of Mecca, Suleiman Pasha, the governor of Egypt and the admiral of the fleet, again demonstrated the ill luck of the Ottoman government in selecting and controlling its officials in the far-off regions of the Empire. Hard pressed for money, probably because the construction of the ships had been more costly than the budget anticipated, Suleiman Pasha extorted a hundred thousand ashrafi from the governor of Jidda, by threatening him and his family with torture.¹³

The complete fleet consisted of seventy-four ships, very well furnished with a wide variety of artillery, both naval and siege. The Genoese naval architect who designed them supervised the construction. Among the rowers were fifteen hundred Christians from the Ottoman Empire, and

to naught (Correa, *op. cit.*, III, 274-275). In 1532 the King of Diu sent presents with a request for aid (*ibid.*, 570; Hustius, in Leunclavius, *Annales*, 466); the King of Gujarat also sent presents to Suleiman and offered to pay the wages of an expedition of 10,000 men (Correa, *op. cit.*, III, 570, 792, 794-795; Lavallée, *op. cit.*, 259; Haji Khalfah, *op. cit.*, 65).

⁹Zain ud-Din, *Tohfut-ul-Mujahideen*, 103-107.

¹⁰Belon, *Plurimarum Singularium* . . . , 246; *Traicte . . . des Scismes*, 229.

¹¹Correa, *op. cit.*, III, 795, 868; Belon, *op. cit.*, 312; Anonymous, *Ex Politeia Regia*, 206; Chalcondyle, *op. cit.*, 540; Thénau, *Voyage*, 80; Castro, *A Rutter*, 287. Cf. *Sommario di tutti li Regni*, 324b, 325b.

¹²Anonymous, *Viaggio per un Comito Venetiano*, 274b; Chalcondyle, *op. cit.*, 540.

¹³Correa, *op. cit.*, III, 868.

there were eight hundred other Christians from the West under the orders of the Venetian squadron leader, who commanded ten vessels. In all, there were 20,000 men.¹⁴

Suleiman Pasha again revealed the type of man he was when he reached Aden. He asked the King, Omar Ibn Da'ud, for provisions, and promised he would do him no injury, but, instead, inviting the unsuspecting ruler to a banquet on board ship, the treacherous admiral had him seized and hanged to a yard-arm of the flagship, while Turkish marines proceeded to occupy the town, without opposition from the citizens, who were taken by surprise and outnumbered by the enemy. Plundering was forbidden, and one marauder was hanged.¹⁵

The action of the admiral in treacherously seizing Aden was not in accordance with the orders he had received from the Emperor, and caused great harm not only to the reputation of the admiral himself and to the success of the expedition in India, but also caused far worse damage to the Ottoman Empire. It increased the already bad reputation of the Turks in the Yemen and spread through Arabia the belief that Turks were scoundrels who did not keep faith. In view of the policies of the sixteenth century, it can be forgiven Suleiman the Emperor that he did not renounce the possession of such an important city as Aden, which was a powerful factor in the control of the Red Sea and the Yemen. He probably felt that if he should give up the city, the Portuguese would seize it, especially as the Arabs of the region would believe that aid would be necessary from some source to prevent the Turks from ever making another attempt to seize it. In short, although the capture of Aden was a mighty advantage to the Turks in holding the Yemen and in their further attempts to free the Moslem shipping from the depredations of the Portuguese, it is certain that the treacherous way of acquiring the city was very injurious to the reputation of the Turks among the Arabs, both in Arabia and elsewhere throughout the Moslem world.

The Portuguese had long before learned of the construction of the Turkish fleet, and every Portuguese ship entering Mozambique in eastern Africa had received orders to go to Diu and leave men to garrison the fortress. In the castle at Diu were seven hundred to eight hundred Portuguese, and the harbor contained six armed ships. The Indian allies of the Turks had been besieging the Portuguese in Diu for twenty-six days before the Turks arrived.¹⁶

Although the Turkish fleet, after a nineteen-day voyage from Aden, reached Diu and besieged the Portuguese there for two months, it was unable to force the surrender of the fort in spite of the enormous number and size of the Turkish guns. This lack of success was partly due to the

¹⁴Chalcondyle, *op. cit.*, 540; Correa, *op. cit.*, 870.

¹⁵Haji Khalfah, *op. cit.*, 65; Hustius, in Leunclavius, *Annales*, 467; Anonymous, *Viaggio per un Comito Venetiano*, 274b.

¹⁶Pinto, *Les Voyages*, 32; Anonymous, *Viaggio per un Comito Venetiano*, 276a.

pusillanimity and unpopularity of the admiral, but mainly to the fact that the Indian rulers of the region, informed of the treachery practiced on the King of the Yemen, contrived to frighten off the Turks with the false report that a tremendous Portuguese fleet was speeding to the relief of the besieged Lusitanians. Some of the Turkish captains, too, had created ill will among the Indian rulers by their arbitrary actions. Without suffering any serious damage, the frightened Suleiman Pasha departed very hastily from Diu, and even left many of his cannon on the shore at Daman, a city near Diu.¹⁷

The one tangible thing Suleiman brought along from India was some eighty Portuguese and Indian captives. He was anxious, indeed, for he knew he had failed miserably, and he knew the penalty of the Ottoman government for cowardice. To mislead his Emperor to believe that he had performed something on the expedition, the admiral sent his ruler the heads of forty-six of the Portuguese and Indian prisoners whom he had executed. This ghastly deed was quite reminiscent of Albuquerque himself in 1508. Further to conceal his guilt, Suleiman Pasha murdered an influential galley-captain whose recriminations against him might have been heard in Constantinople.¹⁸

Suleiman Pasha had done some worthwhile things on the expedition. Some of his ships had raided the coast of Abyssinia. He had shown the Arabs that Turkey was a naval power, and had increased the realm of the Ottoman Empire to the extent of adding Aden, Zebid (which had fallen away from Turkish rule), and Shehir. Zebid had been made to yield to the admiral in the same treacherous manner as had Aden, for the Emir Ahmed of this town met the fate of the King of the Yemen. As Suleiman Pasha had assigned Aden to a sanjak-bey and furnished him with provisions, munitions, artillery, a garrison of five hundred men, and a small fleet of five vessels, so he granted Zebid to a sanjak-bey and left a squadron of light vessels in its port. Mustafa Pasha Biyikli was named governor of the province of the Yemen. But in spite of the reputation Turkey had acquired in eastern waters as a naval power, the successes merely served to stir up the Portuguese to greater efforts, to dissuade the Indian rulers from seeking aid from Turkey, and to convince the Arabs of the Yemen and the Hadhramaut that the Portuguese were superior. In truth, few enterprises costing so much as the fleet of 1537-1539 have had such a negligible result. The cause, in the writer's opinion, was not so much that the Turks were inferior to the Portuguese, as that the leadership of the expedition was thoroughly bad, cowardly, and inefficient. If

¹⁷Hustius, *op. cit.*, 467, 468; Kutbuddin, *op. cit.*, 444-446; Correa, *op. cit.*, III, 870; Haji Khalfeh, *op. cit.*, 66; Pinto, *op. cit.*, 71-72; Badauni, in Elliot, V, 501; Fabricius, *Chronicon Saracenicum*, 144.

¹⁸*Viaggio per un Comito Venetiano*, 277a, 278b.

the Turks had then had such an admiral as sailed the eastern seas twenty years later, India might not have remained under Portuguese rule.¹⁹

TURKISH AND PORTUGUESE MANOEUVRES IN THE RED SEA

The Turkish fleet of 1538 had taught the Portuguese to be on the watch, and in 1540 and 1541 a Portuguese fleet swept the Red Sea. If word had not been sent by the emir of Suakin to warn the Turks in their naval center at Suez, the Lusitanians would have destroyed the new Turkish fleet in preparation there. In revenge for the emir's disservice to them, the Portuguese burned Suakin and even destroyed the cisterns there,²⁰ in a deliberate effort to ruin forever a fairly rich trading town which happened to be in the possession of the Turks.

The Portuguese were frightened, too, for they knew that if the Ottoman Empire should ever have a breathing spell so that it could turn its efforts and ability away from Europe and Hither Asia to India, Portuguese domination there would be ended. Consequently, in 1541, the King of Portugal tried to come to an agreement with the Turks, and offered a treaty that in return for pepper, which the Turks were to pay for with wheat at Basra, the Portuguese be allowed to send ships wherever they chose in the Red Sea. The Portuguese were to maintain a fleet there, to prevent pepper from being imported in that sea, and they were to be obliged to pay the Turks no more than the usual tariffs, although they had permission to sell at the highest prices they could obtain.²¹ The Turks, on the other hand, were to limit their garrison at Aden and furnish, on demand, a goodly quantity of wheat at the current market price. Nothing is known of the negotiations regarding this treaty, but needless to say, the Turks did not agree to it.

THE TURKS IN THE PERSIAN GULF

In 1546 the Turks, as described above, took Basra and so won their first point near the Persian Gulf. This brought them into close contact with the Portuguese who had joined their vassal, the King of Hormuz, in 1521, in forcing the governors of el-Hasa, Bahrain, and Katif to pay tribute. Accordingly, the Ottomans constructed a naval arsenal at Basra, where fifteen ships were maintained for use against the Portuguese, but the port, because of its remoteness, was hardly more useful than Suez.²²

¹⁹*Viaggio per un Comito Venetiano*, 278b, 279a, 279b; Kutbuddin, *op. cit.*, 446; Haji Khalfah, *op. cit.*, 66; Pinto, *op. cit.*, 38; Fabricius, *op. cit.*, 143. Cf. Pinto, *op. cit.*, 67: "They [the Turks] turned their prows toward us so hardily and so courageously that from the manner of their navigation we judged immediately that they were Turkish."

²⁰Correa, *op. cit.*, IV, 111, 161, 165, 167-169.

²¹Danvers, *The Portuguese in India*, I, 450-451.

²²Ibn Razik, *History*, 180, 46 and note 2; Tiepolo, *Relazione*, 145; Garzoni, *Relazione*, 422-423.

The Turkish dominion over Arab lands was increased in 1550 by the surrender of el-Katif, a fort on an island in the Persian Gulf. Outraged at this, the sovereign of the town, who was also King of Hormuz, solicited aid from the Portuguese not long after. With the former King of Basra,²³ who had been driven out by the Turks for having revolted against them after he had sworn them allegiance, the Portuguese and Hormuzians decided to drive the Turks from the Persian Gulf. They made up a fleet, and took the fort without difficulty, for the Turks saw that they were inferior in numbers and retreated. As the Portuguese commander of the expedition was not sure whether he could maintain the fort, he blew up the citadel. Thence he proceeded to Basra, but retired without accomplishing anything of importance. A few years later, by 1554, the Turks had conquered the Bahrain and appointed a governor over the island.²⁴

Although Suleiman Pasha had left a garrison in Aden, some individuals contrived to drive out the Turks, and called in the Portuguese. To recover the town, the Ottoman Emperor, in 1551, despatched Piri Bey, the capudan of Egypt, as admiral of a fleet of thirty sail. Piri Bey departed from Suez and, sailing around the west and south coasts of Arabia, took Aden and afterward Maskat by storm, and sacked the latter. Many Portuguese prisoners were taken here. The successful admiral then laid siege by land and sea, in 1552, to Hormuz, in contravention of the Emperor's orders, for Suleiman probably realized that the town was impregnable because of the mighty fortifications the Portuguese had raised there since they first arrived, almost forty years before. After a month's siege, one of the first great maritime sieges in the world, the Turks retired to Basra, because they could make no impression on the powerful town. From Basra, Piri Bey sent the booty he had obtained at Maskat to Constantinople. He heard, while at Basra, that the fleet of the Portuguese was advancing toward him, a report which was confirmed by the infidel captain whom he took at Maskat, and who advised him to remain no longer where he then was on account of the impossibility of escaping by the strait of Hormuz. The pasha, unable to clear the whole of his fleet, departed with three galleys before the arrival of the infidels. One of these he lost near Bahrain, and with the remaining two he returned to Egypt.²⁵

From Egypt, Piri returned to Turkey with a caravan of camels laden with presents to assuage the anger of Suleiman. Nevertheless, Piri was executed in Constantinople because by disobeying orders he had brought to naught the objective of the expensive expedition, had lowered Ottoman

²³Cf. A. T. Wilson, *The Persian Gulf*, 125.

²⁴Diogo de Couto, *Da Asia*, XV, 243-245, 327-337; Haji Khalfeh, *op. cit.*, 73.

²⁵Haji Khalfeh, *op. cit.*, 71; Sidi 'Ali, *Travels and Adventures*, 3, 4; Anonymous, *Ex Politeia Regia*, 307.

naval prestige, and had left the Portuguese with a reputation for invincibility.²⁶

Kubad Pasha, governor of Basra, offered the command of the vessels left by Piri to 'Ali Bey, a bey of Egypt and an army officer, who refused it. Thus abandoned, the vessels were soon destroyed.²⁷

Freed for a time from extensive military campaigns in Europe, the Ottoman Empire devoted the next few years to battling the Persians and also to combatting the Portuguese in the Persian Gulf. In the latter enterprise they met defeat, for in 1552 Murad Bey, the new admiral succeeding Piri Bey, was badly defeated by the Portuguese fleet, in the Gulf, and retired to Basra. Sidi 'Ali's fleet, in 1554, likewise met disaster, although victorious at first, for he met with a superior Portuguese squadron. Suffering from both the cannon shot of his enemy and contrary winds, he was driven to the coast of India, where his men enlisted in a local potentate's army. It took the stranded commander years to wend his way back to his homeland.²⁸

Still, in spite of the misfortunes that befell the Turkish squadrons, the Turks did at times keep the seas swept quite clear. In fact, for a while they brought enough spices to Alexandria to embarrass seriously Portuguese merchants at Lisbon. In 1561, for example, the Portuguese experienced a scarcity of spices and suffered poverty, comparable to that suffered by the Arabs in the preceding period of almost sixty years.²⁹ But the spy-system of the Portuguese was so efficient, in Alexandria and Syria, that from here news was sent by informers to India and Portugal; accordingly, the Turks, in view of the long and arduous transport of materials to either of the two principal ports, could hardly prepare a fleet at either Suez or Basra, without the Portuguese getting wind of the fact and without their making suitable preparations. Then, too, the Portuguese had ample ports and an abundance of material for construction purposes, while the Turks had in all Arabia but four ports that were good. Indeed, it must have been very costly to construct and maintain the twenty-five ships at Suez.³⁰ Almost all the experience that the Turkish sailors had acquired they had gained on the Mediterranean Sea, whereas any Portuguese whom the Turks met in the Red Sea, Indian Ocean, or Persian Gulf was *ipso facto* a better seaman than any Ottoman, because he had been forced to sail from Lisbon down the west coast of Africa, around the Cape of Good Hope, up the east coast and then across the Indian Ocean, while the Turks had been removed from the land, their natural

²⁶Diogo de Couto, *op. cit.*, XV, 405-426, 467-468, 85-87; Haji Khalfeh, *op. cit.*, 71.

²⁷Vambery, *op. cit.*, 4; Haji Khalfeh, *op. cit.*, 72.

²⁸Haji Khalfeh, *op. cit.*, 71, 73-75; Sidi 'Ali, *Extracts*, 27-28 ff.

²⁹Tellez, *Travels*, re 1557, 144; Linschoten, *Voyage*, I, 38; *Relações*, IX, 252, 303-304; cf. also 134-135, 166, 272.

³⁰*Ex Politeia Regia*, 305-307, 347. Cf. *Breve Relazione*, 316; Belon, *op. cit.*, 293; *Sommario di tutti li regni*, 324b; and Tiepolo, *op. cit.*, 146-147.

element, to the sea, with which few of them were familiar. Located at the source of their wealth, in India, the Portuguese were well provided for, with good ports, wood, food, and even gunpowder.³¹ Furthermore, it is well known that Portugal had set itself about three-quarters of a century earlier than the Turks to becoming the leading seafaring nation of the world. There was no Prince Henry the Navigator for the Turks. The bravery of the Turks, individual or collective, could not overcome the superior seamanship of the Portuguese, and above all the bravery of the Turks could hardly counteract the stupidity or cowardice of some of their admirals.

THE TURKS IN ABYSSINIA AND SOMALILAND

It was realized by both Portuguese and Turks that Abyssinia was important for the possession of the spice route. Situated near the Red Sea and on the Indian Ocean, its possession was, if not absolutely necessary *per se* to the Turks for the control of the Red Sea, at least desirable to keep the Portuguese from becoming permanently established there and so threatening the Ottoman possessions as they had those of the Mamelukes. Besides, Abyssinia's products were valuable. So general was the knowledge of the desirability of holding the country that we find Pope Pius, in 1563, warning the Portuguese that if they lost Abyssinia, India might well be lost too.³²

Since the government of Abyssinia was Christian, the Portuguese were the natural allies of the land. For a long time the Empire of the Negus had been plotting, first against the Mamelukes, and then against the Ottomans. So inveterate was the country's hostility against the Moslems that it may be doubted whether any land subscribing to the beliefs preached by Mohammed has ever hated its opponents in religion so much. Lately the Abyssinian government had suggested to Portugal that forts be erected at Zeila,³³ Massawa, and Suakin, so as to conquer Jidda and Mecca, by first starving these towns (for Abyssinia furnished them with victuals), and then taking them by storm. By 1539 the Turks had twice armed their Moslem confreres along the coast of Abyssinia with weapons for fighting their common enemy, the Christians.³⁴ In 1542, in a long war against the Christians, the King of Zeila was aided by the Turks, with men and arms, but the Portuguese stepped in and turned the tide with their armored troops, late that year, and the following year. As a result

³¹Barbarigo, *Relazione*, 9-10.

³²Letter of Pope Pius IV to the King of Portugal, Feb. 6, 1563, in *Relações*, IX, 62-63. (This desire to connect with Abyssinia goes back to Prince Henry's time.)

³³Zeila belonged to the Moslem kingdom of Adel which roughly comprised Somaliland. Alvarez, *Certaines Answeres*, 52-54; Varthema, *Travels*, 88.

³⁴Alvarez, *op. cit.*, 52-54; *idem*, *Narrative of the Portuguese Embassy*, 186, 204, 372; John Leo, *History*, III, 982; Corsali, *Della Navigazione del mar Rosso*, 186b; Varthema, *op. cit.*, 87-88; Castro, *op. cit.*, 253-254.

of this European help, the Moslems were crushed,³⁵ and the Turks were so disheartened by the lack of cooperation that they had experienced that they did not again venture into Abyssinia for fifteen years. In 1550 the Turks, invited by the native ruler of Mombasa, sent out four triremes and one galeot, but the Portuguese captured these and thus prevented the Ottomans from extending their dominion into east Africa.³⁶

From 1557 to 1562 the Turks made various raids into Abyssinia from Suakin. In 1557 all communication between Ethiopia and India was cut off. Although these raids were motivated by a thirst for plunder or by the adventurous spirit of the nearby local Turkish governors, there was nevertheless an important end that might have been accomplished by the Ottoman occupation of Abyssinia, namely, depriving the Portuguese of a base and an ally and obtaining a base for Turkish operations against both India and the Portuguese-controlled trade routes.³⁷ In an effort to establish a position in the land, the Turks of Zebid sent infantry and artillery to Gradamet (sometimes called Ahmed Gran), the emir of Harrar.³⁸ The severe defeat or losses suffered by this expedition in 1562, however, caused them to forego war against the Abyssinians until 1572, when they built a fort at Debra Tabor as a base for raids. Subsequently, the Turks got control of the entire seacoast of Abyssinia, for the Turkish soldiers, generals, arms, and munitions were all better than those of the natives. Indeed, the Porte even made a province, or beylerbeylik, of the region, which yielded its governor annually as revenue some 1,000,000 aspers for the short time it remained in Turkish hands.³⁹

The King of Abyssinia was a loyal ally of the Portuguese, and the Turks had little chance of establishing themselves permanently in that country. Moreover, a foothold there would not have brought enough profit to offset the cost of maintaining the strong fleet that would have been necessary in order for the Turks to defend themselves against the great sailors of the Portuguese. Such a fleet would have cost the Ottoman Empire far more than it would have cost in most other lands. Materials, such as timber and possibly cordage, were available in Ethiopia,⁴⁰ of course, but they would have had to be transported to the coast. A colony of ship-builders and cannon-founders would have had to be brought from Turkey, and iron would have had to be mined or imported from Asia Minor. Besides, there was no very good harbor on the coast of Ethiopia. It was impossible, therefore, for the Turks to expect

³⁵Castanhoso, 55, 60-65, 69, 79-83; Bermudez, *Short Account*, 161, 193.

³⁶*Ex Politeia Regia*, 307; João dos Sanctos, *Collections*, 253.

³⁷Rustem, *Chronik*, 169; Kutbuddin, *op. cit.*, 452-453; Budge, *A History of Ethiopia*, II, 349, 359; Sanctos, *op. cit.*, 144.

³⁸Basset, *Histoire de l'Éthiopie*, 144; Castro, *op. cit.*, 252, 253.

³⁹*Ex Politeia Regia*, 307; Evliya, *op. cit.*, I, pt. I, 89.

⁴⁰The ships used by the natives in the Red Sea and Indian Ocean contained no iron or copper. The vessels were made of merely ropes and palm wood and branches and "sewed" together. Belon, *op. cit.*, 306-307.

to compete with the Portuguese by holding Ethiopia. It is doubtful whether they would have even made their expenses if they had only stationed garrisons in a few posts, and neglected the maintenance of a fleet. Abyssinia could be held or developed only if there were no opposition, and both the Abyssinians and the Portuguese assured the Ottomans of resistance.⁴¹

DIFFICULTIES IN THE YEMEN

The middle of the sixteenth century saw the rise in the Yemen of a new dynasty destined to sweep out the Turks for a time. This political movement, like so many others in Islamic countries, was cloaked in the guise of a religious movement. An imam (religious leader) called Sharef ed-Din established his power over the region around Sanaa. He soon collected a large following and prepared himself for an attack from the Turks. Since the Turks were not eager for a war, all might have gone well if Sharef ed-Din had not refused to forego some of the sovereign rights he had assumed. The heresy of his followers was the belief that God had manifested himself in a descendant of 'Ali, the son-in-law of Mohammed, called Zaid, and that he, Sharef ed-Din, in his generation, was a living manifestation of God. This, of course, was not in accordance with the orthodox, or Sunni, school of Islam, to which the Turks belonged, for they did not believe that 'Ali was anything but a son-in-law of Mohammed. A dispute in Sharef ed-Din's family, however, weakened the movement and gave an opportunity to the new Turkish pasha of Zebid, named Uwaiya, to stamp out the rebellion and the heresy.

The Turkish campaign against the rebels was marked by assassination of the general commanding the Turks and by civil war in their own ranks. All in all, it was a sorry spectacle to see how thoroughly inefficient the representatives of the Ottoman government were in southern Arabia. Nowhere else was the Emperor represented by such stupid, selfish, brutal, and unpatriotic men as in the Yemen. Although the revolution started at Sanaa, in 1547, it spread to Zebid and Aden, too. The rebels did not appreciate what an antagonist they had to face and how well the Turkish Empire realized the danger of allowing a single revolt to succeed. The Ottoman Empire, despite difficulties in its own armies, crushed the revolt first at Zebid, and then with a fleet smashed the Beduin control of Aden. This took place in the nick of time, just as the Portuguese were about to appear. If they had done so, it is possible that the Arabs would have had other masters.⁴²

⁴¹Cf. *Ex Politeia Regia*, 305-307. Eventually realizing that they could not defray their expenses, the Turks withdrew their governor in the early seventeenth century and recognized a native as tributary Sultan. Evliya, *op. cit.*, I, pt. 1, 89.

⁴²Kutbuddin, *op. cit.*, 449, 450; Rustem, *op. cit.*, 174-175; Correa, *op. cit.*, IV, 624-635; Diogo de Couto, *op. cit.*, III, pt. 2, 1-7; 20-37, 44-46.

The campaign to stamp out the Zaidis, or adherents of the religion preached by Sharef ed-Din, failed, however, because of jealousy between the commanding Turkish generals,⁴³ and because of difficulties created by the governors in the Yemen. For one thing, the Turkish officials in the Yemen altered the coinage so that it was worth but twenty to twenty-seven per cent of its original value.⁴⁴ The result of this was that, as the pay of the troops had been fixed at a low rate, they endured great hardships when the money fell and their wages were not increased. These soldiers were originally a sturdy, honest lot, for it was only after they had sold their own belongings in an effort to survive that they did what normal soldiers all over the world have done in similar circumstances, namely, steal what they needed. Nothing could have been better calculated to make the people discontented with Turkish rule, and to put dissension into the ranks of the Turkish army.⁴⁵

Mahmut, one of the last governors of the Yemen before the great rebellion of 1566, brought about the temporary downfall of the Ottoman government in the Yemen, for he frequently and flagrantly broke his word with the Arabs. Furthermore, he lied to the Emperor in his reports on the country and progress of the war. At last, to crown the list of his disservices to the Ottoman government, he divided the Yemen into two administrations, with a beylerbey at the head of each. The Turks were so few compared to the natives of the Yemen that it had been difficult enough to maintain themselves when they were united and the inhabitants had not combined. Naturally, the division increased expenses and consequently taxes in both districts, but particularly in the mountainous district about Sanaa. When Mutahbir, the leader of the Zaidis at Sanaa, was refused a hearing by the Turks when he protested against the increased taxation, the citizens rallied to his side in open rebellion. The gross incapacity of Murad and Redwan, the rival governors in the two new districts, appeared unmistakably when, instead of forgetting their regional quarrels regarding jurisdiction⁴⁶ until the insurrection could be put down, one of them actually sided with the rebels.⁴⁷

On the death of Emperor Suleiman in 1566, practically all the Yemen burst into rebellion. The Turkish troops were forced to surrender and then were butchered. Even the general, Murad, was captured and slain. Mutahbir then boldly made claim of sovereignty over Sanaa. In one year (1567-1568) the rebels took all the large towns—Taiz, Zebid, Aden, Mokha, and Mauga. Selim II, the new Turkish emperor—or rather

⁴³Kutbuddin, *op. cit.*, 450-451.

⁴⁴The dinar was quoted at 300 othmanis in the Yemen, but at only 60 in Constantinople and 80 in Cairo.

⁴⁵Kutbuddin, *op. cit.*, 454-455.

⁴⁶Their boundaries had not been agreed upon.

⁴⁷Kutbuddin, *op. cit.*, 454-455, 457-459.

Mohammed Sokolli, his able Grand Vizier—at length realized that the revolt in the Yemen was serious, and he despatched Lala Mustafa to raise and command a great army in Egypt. The rebellion was so violent that Lala Mustafa merely raised the troops and refused to accept the responsibility of commander-in-chief. Sinan, an able officer, took his place, and after a campaign of a year and a half stamped out the rebellion, in November, 1570, but only by the treachery of one of the rebels and after first taking Aden.⁴⁸

Turkish authority was again established in southern Arabia, but peace was not to exist for long. Indeed, it was necessary to despatch troops from Egypt to the Yemen almost every year.⁴⁹ Within a few years the whole land was to flame out again in a greater revolt than ever. The Turks were to lose their power, to retire, and to advance again, but the country was to be freed from them eventually. The bad officials of the Ottoman government were too numerous in this region and were never adequately offset by the few good ones. The land was too far away from Constantinople for the home government to hold its deputies in check.

Though but one of the Turkish expeditions to the Red Sea, the Persian Gulf, and the Indian Ocean was large, the despatching of so many small squadrons and, above all, the constant maintenance for the rest of the sixteenth century of at least a Red Sea fleet,⁵⁰ must have been burdensome to the Empire, and especially to Egypt, for the trade of the Arab lands, so far as is known, did not increase much, except to some extent in Iraq. The day of the commercial superiority of the Arabs was over, never to return. Even if the Mameluke Empire had driven off the Portuguese and recovered control of the spice route, or if the Ottoman Empire had had a recess from its European enemies long enough to devote its talents and resources to driving out the Portuguese from India, prosperity would have returned only temporarily to the Levant, for the naturally superior Cape Route would have been resumed by some other European power, very likely Spain first and France and England afterward, either alone or in league with Portugal. The latter country had tasted tremendous wealth, and its European neighbors probably realized the desirability of acquiring the trade route.

With the failure of the Turks the fate of the Eastern Mediterranean was settled. It was not obvious to people in the sixteenth century, but the fact remains that the preeminent position in commercial and cultural leadership had shifted from the Mediterranean to the Atlantic. The farther half of the Mediterranean and most of the entire basin of that

⁴⁸*Ibid.*, 460-465, 476, 502.

⁴⁹Niebuhr, *Description*, 168.

⁵⁰Linschoten, *op. cit.*, I, 38.

sea had declined and would still further decline, for its exports to western, central, and northern Europe were constantly lessening, while its imports from those regions were increasing. Such a process was to go on apace, until the credit of those Mediterranean lands failed almost completely, and until those more fortunate European lands won over the superiority in trade and manufactures that the older region had held. This actually seems to have taken place in the eighteenth and early nineteenth centuries.

So vast had been the effort and the cost of the effort to reopen the trade route to India, that the Empire had been drained of the slaves and free sailors formerly used to serve on its ships. Even Crete had been combed for bandits, who were sentenced to serve as galley slaves and manned thirty ships a season. In the last quarter of the sixteenth century, there were no longer any of these. A levy was made to raise the necessary men. Each village that did not send a man had to pay the sum of twenty scudi instead. An Italian writer quaintly says: "Thus the villages are impoverished both of men and money, because very few ever return alive, especially those who are called to the extreme parts of the Empire on the borders of Persia and the Red Sea. Many of them in marching for more than two months suffer so much from the trip that they die either on the trip or on their arrival, and many more die in the galleys, and the rest almost all die when they return to their homes, so that we may say that to levy those men is to take them forever from their towns. It has been said that for a long time many on the frontier are abandoning their homes and fleeing to Persia."⁵¹

⁵¹Tiepolo, *op. cit.*, 147.

CHAPTER V

THE DECLINE OF THE ARABS

THAT THE TURKS were destructive, that they over-taxed the lands they ruled, that they let the canals fall into disrepair, that their justice was venal, and that they discouraged art, has been taught almost everywhere. It may be said that such statements are not true at least of the two generations following the Turkish Conquest. Critics of the works of art executed in the Turkish regime must remember that since Moslem art is largely connected with religious buildings the Turks hardly had any cause to construct or decorate new edifices,¹ because the preceding rulers had built so many. It is true that few mosques were erected, but many tekias or retreats for dervishes, primary schools, and sebils, or free fountains, were built.² In fact, there is evidence that it was rather a frequent occurrence for the Turks to erect fountains.³ Furthermore, in spite of the usual belief that Turkish works of art and buildings in Arab lands are not esthetic,⁴ there is ample favorable criticism.⁵ Indeed, one writer, quite well acquainted with Egypt, has said that "Cairo is full of Turkish mosques, that is, Turkish of the Othmanly style, which, if they cannot compare with the buildings of the earlier Mamelukes, are nevertheless very creditable examples of the kind and far superior to anything built, say in England during the past century."⁶ Another, also well qualified, states that "much of the special beauty of the mosque of the Dome of the Rock in Jerusalem is due to Suleiman."⁷ Under the Turks faïence was introduced.⁸ It may be concluded that on the whole Ottoman art was not sterile, but rather less interesting from a historic point of view, inasmuch as there are not the associations that exist in Mameluke art.⁹

The reading of a few dozen accounts of pilgrimages or travels in the latter part of the fifteenth and the first three quarters of the sixteenth

¹Devonshire, *L'Égypte Musulmane*, 120.

²Devonshire, *Mosques and Shrines in Cairo*, in *Islamic Culture*, IV, 567 (1930).

³Belon, *Plurimarum Singularium*, 316: "extra urbem Cairum eleganter constructa conspiciuntur templa Mesquitarum [mosques] dictae, multorum manuum sumtu et cura paucis ante annis exaedificata; nam si quis Bascha, Sangiacus, aliusve auctoritate pollens Imperatoris Turcarum aulicus, aliquid memoria dignum posterius relinquere vult eiusmodi fabricas exstruit pietatis causa, quibus cisternas adiungunt, aquae conservandae idoneas, ut quilibet sua iumenta inde aquare, ipseque secundum eorum consuetudinem eluere se possit . . . in Cairo reliquisque Aegypti, Syriae, Turcarumque Imperatori subiectarum provinciarum urbibus, ubi viae coeunt et coniunguntur, ingentia ponuntur vasa, quae singulis diebus aqua implentur, ut qui sitiunt inde haurire queant."

⁴Waters, *Egypt*, 335.

⁵Sionita, *De Nonnullis Orientalium Urbibus*, 31; Devonshire, *L'Égypte Musulmane*, 116, 122.

⁶Lane-Poole, *Story of Cairo*, 298.

⁷Margoliouth, *Cairo*, 355.

⁸Lane-Poole, *op. cit.*, 298.

⁹Devonshire, *L'Égypte Musulmane*, 117-118.

centuries fails to support assertions as to the negligence and destructiveness of the Turks. It shows rather that many of the towns for whose destruction the Turks have been blamed were already either destroyed or in serious decline a generation or two before the year 1516. It has been said that the Ottoman Turks reduced to a heap of ruins several cities on the coast of the Mediterranean in Syria, Jaffa, Gaza, and Tyre. Homs and Hamah, it is claimed, became miserable villages of some hundreds of inhabitants under the Turks. The decline of Damascus is also attributed to the Ottomans.¹⁰

But Jaffa as early as 1480, and again in 1497, was declared to be "of very little importance, with but poor and few houses and a dangerous, rock-filled harbor," and "large as Lucerne, but in ruins with no houses."¹¹ In 1511 Gaza was hardly mentioned as a town; the region about it was rather described as being a plain and good land.¹² About 1550 (the earliest date near the Conquest when any traveler that the writer has found describes the coast of Palestine) Tyre had a small population, and there was no town between Tyre and Sidon (Saida).¹³ It is not likely that the Turks ruined this town, which, before as well as after 1516, was mentioned less than Jaffa or Gaza. Hims (Homs), at the middle of the sixteenth century (again the earliest date the writer could discover) was "very ruined and uninhabited."¹⁴ The earliest account found for Hamah is dated in the last quarter of the sixteenth century, when an Englishman wrote that it was "much decayed."¹⁵ Since no mention has been found at any date near 1500 of Jaffa, Gaza, Tyre, Homs, or Hamah as populous towns, and since the reason for the decline of Damascus was the development of Aleppo as entrepôt of the overland trade route to Basra (as has been explained), the conclusion appears justified that the Turks did not ruin any of these towns.

The decline and ruin of Alexandria was attributed by M. Savary, a Frenchman of the eighteenth century, among many others, to the Turks.¹⁶ But before the Turkish Conquest, Alexandria was described, about 1515, as "ruins";¹⁷ in 1504, as "for the most part ruined and destroyed with nothing but empty streets and houses in ashes";¹⁸ in 1511, as "ninetenths in ruins"¹⁹ and "very pretty and large but all in ruins";²⁰ and in

¹⁰Mounayer, *Le Régime*, 75.

¹¹*Voyage de la Ste. Cyte*, 60-61; Schürpf, *Pilgerfahrt nach Jerusalem*, 204.

¹²Thénaud, *Voyage*, 118.

¹³Anonymous, *A Narrative of a Journey from Rome to Jerusalem*, 141.

¹⁴Chesneau, *Le Voyage*, 110-111.

¹⁵Eldred, *Voyage*, 2.

¹⁶Savary, *Lettres sur l'Égypte*, I, 32.

¹⁷John Leo, *History*, III, 864.

¹⁸P. Martyr, *Die Babylonische Botschaft*, 239b.

¹⁹Trévisan, *Relazione*, 173.

²⁰Thénaud, *op. cit.*, 23.

1487, as "very large but two-thirds destroyed and with many uninhabited houses."²¹

For the decline in the growing of grain in Syria, the Turks and not the continual wars with Persia have been blamed.²² Late in the sixteenth century and into the seventeenth century authorities state that Syria was still raising its accustomed crops and was flourishing.²³ These authorities referred to the recent past and not to the best days of Syria, gone for many centuries.

But the Turks were not merely passive. On the contrary, they built and maintained many fountains, colleges, city walls, hospitals, mosques, and khans in Cairo,²⁴ Jerusalem,²⁵ Damascus,²⁶ Mecca,²⁷ Aleppo,²⁸ Bulaq,²⁹ and Baghdad.³⁰ Evidence has not been produced that they destroyed or allowed canals or harbors to fall into disrepair. On the contrary, they made every effort to impede the destructive drifting of sand, to conserve water, and to maintain public works.³¹

That men who actually saw, passed through, and resided in these towns in this period could have been in error, while travelers two centuries later, such as Savary, are thought to be correct in their condemnation of the damage committed by the Turks, is absurd. But it ought not to be forgotten that the constant wars in Syria before the Turkish Conquest had caused some of the inhabitants to acquire slothful habits.³² On the other hand, the Turkish government does not seem to have caused the inhabitants of Egypt to become apathetic.³³

The Turks entered the Arab lands when a great economic change was taking place.³⁴ The shifting of the route from India around the Cape of Good Hope had removed the foundation of Arab prosperity. The discovery of America, with its mines of gold, its raw products, and above all its capacity for creating other products and ultimately consuming

²¹Bertinoro, *Letters*, 222.

²²Mounayer, *op. cit.*, 75-76.

²³Cartwright, *op. cit.*, 482; Sionita, *op. cit.*, 22; Chesneau, *Le Voyage*, 99-100, 255; Anonymous, *Relazione di Soria in Berchet*, 59; Anonymous, *Relazione della Guerra di Persia*, 221-222.

²⁴Evliya, *op. cit.*, I, pt. 1, 84; Marai, *op. cit.*, 441; Belon, *op. cit.*, 316; Devonshire, *L'Egypte Musulmane*, 117.

²⁵Max van Berchem, *Matériaux*, No. 109, 403-404; No. 119-129, 437-443; Fuerer, *op. cit.*, 54-56; Watson, *Jerusalem*, 265-267; Evliya, *op. cit.*, I, pt. 1, 82; E. Carmoly, *Itinéraires*, 436; Margoliouth, *op. cit.*, 355; Alcarotti, *Del Viaggio*, 175; Anonymous, *Narrative of a Journey from Rome to Jerusalem*.

²⁶Margoliouth, *op. cit.*, 392-394; Evliya, *op. cit.*, I, pt. 1, 82; Pantaleão de Aveiro, *op. cit.*, 505-506; Alcarotti, *op. cit.*, 64; Max van Berchem, *op. cit.*, No. 118, 418, 431.

²⁷Marai, *op. cit.*, 449; Evliya, *op. cit.*, I, pt. 1, 82; Sionita, *op. cit.*, 31.

²⁸Devonshire, *op. cit.*, 122; Margoliouth, *op. cit.*, 234.

²⁹Evliya, *op. cit.*, I, pt. 1, 82.

³⁰Eldred, *op. cit.*, 1; Teixeira, *op. cit.*, 114; Belon, *op. cit.*, 259.

³¹Cf. Belon, *op. cit.*, 346 and 330; Jouplain, *op. cit.*, 582.

³²Cf. Radzivil, *op. cit.*, 147: "Die jetzige Kauflcut aus Mohren land bauen ire Pallaest auch nit mit geringerem unkosten und zierligkeit [than under the Mamelukes]; deren wir auch ein stattlichen gesehen, welcher ob er schon noch nicht zum endt gefueret war, sagte man doch, er were mit 3 mal 100,000 Ducaten nit erbawet worden."

³³So great had the prosperity of the Arab lands been because of the India-Europe trade that even at the close of the sixteenth century when Egypt had lost much of its prosperity and splendor it was still accounted the wealthiest province of the whole Ottoman Empire. Anonymous, *Turcici Imperii Status*, 74.

European wares, gradually so withdrew the trade route from the Mediterranean that the Levant became an economically unimportant district indeed, in comparison with the lands facing the new markets. It is true that the discovery of America had a much slower effect than that of the Cape Route to India, but nevertheless it seems to have completed the task of rendering economically insignificant the lands where the Arabs dwell.

Portugal, the Netherlands, France, and England all grew rich from trade with the Indies. They grew so wealthy that they began to outstrip the Turkish Empire, which at the beginning of the sixteenth century seems to have equalled if not surpassed Europe in wealth and culture. But the new cheaper routes made possible a far greater volume of trade than had passed through the Levant in the heyday of the latter. This larger volume naturally made those sections of Europe which engaged in the Indian trade richer, and therefore Europe began to surpass its former peer. The Levant was excluded from most of the wealth this trade brought, because the land routes could not possibly compete with the all-water way.

From this increasing difference in the fortunes of Europe and the Levant there resulted, quite naturally, a feeling of superiority on the part of Westerners. Critically they now viewed what formerly they had admired. Not realizing that their superior economic status was a gift of nature, and was not due so much to themselves as to the accident of the discovery of the Cape Route and their own favorable position for marketing the wares,³⁵ the Europeans grew to believe that they were by nature superior to the inhabitants of the Near East.

Of course, as was quite natural, the rulers of the Arab lands were blamed for the lack of prosperity and culture in those lands. Decay and ruin which had existed when the Turks arrived were blamed on them. Just before the Turks arrived in Egypt a learned traveler noticed that most of the college students studied law, that very few studied liberal arts and sciences. "And albeit their colleges are continually full of students, yet few of them attain unto perfection."³⁶

The decline which culture underwent because of the withdrawal of the support which wealth had once offered, was likewise accredited to the Turks. That culture did languish because foreigners ruled over the Arabs, is probable. But it is yet to be proved that the Turks were actively hostile to culture. Indeed, that the Turks' own culture developed is evidenced by the increasing number and quality of their works. It is more likely

³⁵Again very largely by water, whereas Venice, Barcelona, and Genoa had been compelled to send the goods by land.

³⁶John Leo, *op. cit.*, III, 882. Cf. also Chapter I.

that the difference of language, the absence of a central government with its court,³⁷ the small number of the Turks domiciled among the Arabs, and the short terms of the officials, all combined to make a coterie of the Turks. It is known that the Turks were either officials or soldiers. The Arabs were either farmers or shop-keepers or merchants.³⁸ Such a state of affairs was most unfavorable to an understanding with the population. The Arabs probably felt that they were being exploited for the benefit of the Porte, because dominion by foreigners who do not assimilate with their subjects certainly looks like oppression. The Mameluke regime, however, had oppressed the inhabitants far more than the Ottomans ever did, although under the Turks the taxes were felt more keenly because there was no longer the great revenue from the commerce with India and Europe.

Yet it seems that the Arabs were indebted to their rulers for protection from the Portuguese and for an attempt to restore the lost trade. This last endeavor, however, was doomed to failure, because of the pre-occupation of the Ottoman Empire in fighting off its many foes and because the trade route from India through the Levant was no longer practicable. It had been demonstrated that the all-water way was cheaper, and Europeans were not going to forget this.

The development in Europe of a mercantile class caused ideals which it regarded as favorable to be sought after and eventually realized. The smaller opportunity for such a class to develop in the Levant did not allow such standards to obtain there. Hence the governmental officials seemed to European visitors in later generations to be venal.³⁹ Charges of corruption were rare in the first three quarters of the sixteenth century, but increased in volume in the last quarter. The charges made in the former period show by their language that Europeans were none too surprised, but rather were meeting conditions similar to those in their own homes. It is interesting to note, however, that the Ottoman government did not persecute or attempt to exterminate its Christian or Jewish subjects, and did not interfere with their worship in the fifteenth and sixteenth centuries, which, as is widely known, were horrible days in Europe for heterodox people.⁴⁰

Reflections that parts of the Turkish government of the seventeenth and later centuries were venal seem justified. But to go beyond that and to assume that the Turk is more dishonest by nature than the

³⁷Lane-Poole, *Story of Cairo*, 287.

³⁸*Cf.* Sionita, *op. cit.*, 159-160; Radzivil, *op. cit.*, 147, 14; Zuallardo, *op. cit.*, 288.

³⁹*Cf.* Lane-Poole, *Story of Cairo*, 289; Paton, *op. cit.*, I, 61-62.

⁴⁰Tarducci, *Turca Vincibilis*, 239; Noe, *op. cit.*, 141; Rauter, *Reissbeschreibung*, 437; Tschudi, *Reyss*, 134; Sionita, *op. cit.*, 109, 169, 170, 171; Teixeira, *op. cit.*, 116; Affagart, *op. cit.*, 171; Brerewood, *Enquiries*, 358; Vigenère, *op. cit.*, 143, 145; Derschwan, *Tagebuch*, 79.

European, is unfair. It is worthy of notice that Sultan Suleiman took great care that the teachers in the Arab lands should receive their salaries from their institutions' endowments. The historian Marai writes that "Under the regime of the Mamelukes very little of this money had gone to the teachers."⁴¹ The vast distance of the Arab lands from the seat of the central government at Constantinople, a distance requiring from twenty to seventy or more days' journey,⁴² made adequate supervision impossible, but the Porte did attempt to prevent oppression.⁴³ The reputation of the Turks suffered because of the faulty organization of their administration in Arab lands, but still more because of the great and inevitable economic changes.

⁴¹Marai, *op. cit.*, 443.

⁴²P. Michele, *Relazione*, 66; Ludovisi, *Relazione*, 6.

⁴³*Cf.* No. 27, Sauvaget, *Decrets Mamelouks*, in *Bulletin d'Études Orientales*, II, fasc. 1, 1932.

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